

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

PREAMBLE

1. **Sections Affected**

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R3-2-701	Repeal
R3-2-701	New Section
R3-2-702	Repeal
R3-2-702	New Section
R3-2-703	Repeal
R3-2-703	New Section
R3-2-704	New Section
R3-2-705	New Section
R3-2-706	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 3-1203(D), 3-1337

Implementing statute: A.R.S. §§ 3-1203, 3-1331, 3-1348
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Shirley Conard, Rules Specialist

Address: Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking removes outdated references to the 'Livestock Board', repeals information found in statute, corrects a statute reference, clarifies when livestock must be inspected by a livestock officer, adds self-inspection procedures for dairy cattle and feedlots, and clearly establishes the general requirements for all types of self-inspection procedures.

R3-2-701. Department Livestock Inspection. This rule explains when a livestock officer or inspector will inspect cattle.

R3-2-702. Livestock Self-Inspection. This rule establishes the eligibility and general requirements for self-inspection. This eligibility is based upon the number of animals established in A.R.S. § 3-1340(A) allowing livestock owners to transport their animal without receiving an inspection.

R3-2-703. Self-inspection For Cattle Destination.

R3-2-705. Self-inspection For Sheep.

R3-2-706. Self-inspection For Dairy Cattle or Feedlots. These rules allow efficient, yet documented, instate movement of cattle to sale-barns, feedlots and slaughter establishments.

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R3-2-704. Self-inspection For Pasture to Pasture. This rule establishes 'cab cards' for ranchers or operators transporting cattle within a ranching unit or between their ranching units. The cab card contains the owner's name, brand, and the inspection district, and allows for the free movement of the rancher's cattle within that inspection district. Once the rancher or operator contacts Department's dispatch of the cattle movement, dispatch will notify the officers in the district of origin and destination of the cattle movement. The dispatcher will complete a Notice of Cattle Movement and maintain a data base record of the transaction.

5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

6. **The preliminary summary of the economic, small business and consumer impact statement:**

The Department has been meeting with the livestock industry to discuss livestock self-inspection in an effort to improve the efficiencies and effectiveness of the program. This rulemaking sets up a documented instate movement of cattle to sale-barns, feedlots, and slaughter establishments.

A. Estimated Costs and Benefits to the Arizona Department of Agriculture.

These rules clarify the self-inspection program and adds a new self-inspection category (cab card) for pasture-to-pasture movement within or between a ranching unit. The additional category reduces the threat of livestock theft and lowers the possibility of the Department expending resources by engaging in a theft investigation. The cab card also removes the requirement for the self-inspection book when the owner is moving livestock in this manner. The additional self-inspection programs for dairy cattle and feedlots closes the gap of controlling animal movement in the state and carries out the statute provision of A.R.S. § 3-1337(D). This program is currently being managed through general funds and no changes in costs are anticipated through this rulemaking.

B. Estimated Costs and Benefits to Political Subdivisions.

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. Businesses Directly Affected By the Rulemaking.

Livestock owners or agents, inventoried feedlots, and inventoried dairies.

These rules establish who may apply for a self-inspection certificate book and sets up a new type of livestock movement opportunity with the pasture-to-pasture cab card. The cab card eliminates the self-inspection book now required for this type of movement. Except for the pasture-to-pasture cab card, there are no additional requirements for a ranching operation, inventoried dairy operation, or inventoried feedlot operation. This rulemaking clarifies the self-inspection requirements and clearly states when a livestock owner or agent needs a livestock officer to inspect their livestock. Although the livestock owner still needs to use the self-inspection certificates when moving cattle to auction, feedlot or slaughter, by using the pasture-to-pasture cab card, the owner will not have to complete a self-inspection certificate every time he moves cattle within the ranching unit, thus being able to drastically reduce the volume of paperwork. Since the program is being managed through the general fund, there are no costs, current or additional, to the owner or agent.

The following self-inspection certification books have been issued during the last 3 years:

Self-inspection Type	FY 1994-1995	FY 1995-1996	FY 1996-1997
Brand Owner	675	639	668
Sheep	168	90	92
Feedlot	482	441	463
Dairy Cattle	419	358	259

D. Estimated Costs and Benefits to Private and Public Employment.

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. Estimated Costs and Benefits to Consumers and the Public.

Although this program is paid through monies from the general fund, this rulemaking adds no new costs to the program. Consumers and the public are not directly affected by changes of this proposed rulemaking.

F. Estimated Costs and Benefits to State Revenues.

State revenues are not directly affected by the implementation and enforcement of this rulemaking.

7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Shirley Conard

Address: Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007

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Telephone: (602) 542-0962

Fax: (602) 542-5420

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, when, where, and how persons may request an oral proceeding on the proposed rules:

Date: December 8, 1997

Time: 10 a.m.

Address: Department of Agriculture
1688 West Adams, Room 206
Phoenix, Arizona 85007

Nature: Public Hearing

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m., December 9, 1997. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Department's coordinator, Patrick Stevens, (602) 542-4316 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.

10. Incorporations by reference and their location in the rules:
None.

11. The full text of the rules follows:

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CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION

ARTICLE 7. LIVESTOCK INSPECTION

Section

- R3-2-701. ~~Livestock certificate required to be in immediate possession~~ Department Livestock Inspection
R3-2-702. ~~Horse trader permit requirements~~ Livestock Self-Inspection
R3-2-703. ~~Self inspection for owners or lessees of a brand recorded with the Board, other than dairies and feedlots, other than dairies and feedlots. Self-inspection for Cattle Destination Movement~~
R3-2-704. Self-inspection For Pasture-to-Pasture Movement
R3-2-705. Self-inspection For Sheep
R3-2-706. Self-inspection For Dairy Cattle or Feedlots

ARTICLE 7. LIVESTOCK INSPECTION

- R3-2-701. ~~Livestock certificate required to be in immediate possession~~ Department Livestock Inspection

A legible original or duplicate of the original of certificate of ownership, hauling certificate, certificate of brand inspection, or permanent hauling permit shall accompany all horses, mules, asses, cattle or other livestock being moved and must be in the immediate possession of any person moving any horse, mule, ass, cattle or other livestock wherein a certificate of ownership, hauling certificate, certificate of brand inspection, or permanent hauling permit is required under the provisions of Arizona Revised Statutes, Title 24. A livestock officer or inspector shall inspect cattle at a ranching or feedlot operation, if the owner or agent is:

1. Requesting the inspection;
2. Moving cattle out-of-state and retaining ownership;
3. Transferring the cattle ownership, whether in-state or out-of-state, except as provided in R3-2-706(C);
4. Moving fresh branded or unbranded cattle not found with their mother

5. Slaughtering cattle at the owner's ranch or shipping them to a custom exempt facility;
6. Moving breeding stock out of the feedlot.
7. A livestock officer or inspector shall inspect cattle at a feedlot, if:
 - a. The owner or agent requests the inspection.
 - b. The animals are breeding stock.
 - c. The owner or agent is transferring the cattle ownership, whether in-state or out-of-state.
 - d. The cattle are being shipped to a custom exempt facility.

- R3-2-702. ~~Horse trader permit requirements~~ Livestock Self-Inspection

- A. A person applying for a horse trader permit must submit an application as provided by the Board along with a \$100.00 fee.
- B. Upon approval of the application, the Board may issue a numbered permit as per A.R.S. § 24-278.
- C. A horse trader permittee or his authorized agent must comply with the following requirements:
1. Shall assure that the seller's portion of the equine transfer request is completed by the seller at the time of purchase.
 2. Shall include his horse trader's permit number along with his signature or his name signed by any authorized agent in designated space on the equine transfer request.
 3. Shall assure that the buyer's name and date on the buyer's portion of the equine transfer request are filled out when animal is sold or if sold to another licensed horse trader, then that trader must comply with requirement number two. The trader will be obligated to assure that the buyer's portion of the transfer request shall show the new owner's name and date of transfer.

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A. Any owner or operator of a ranching operation, producing at least 5 cattle or 10 sheep, an inventoried dairy operation using 5 dairy cattle, or an inventoried feedlot operation moving at least 5 cattle per year to a state or federally inspected slaughter establishment or to a recognized Arizona livestock auction, may apply for a self-inspection certificate book or cab card to move livestock from 1 location to another.

B. General self-inspection requirements.

1. Except for pasture to pasture movement, when any livestock are moved the owner or operator shall complete a self-inspection certificate and distribute it as follows:
 - a. The original shall be sent to the Department within 10 days after the end of the month in which the animals are moved.
 - b. One copy shall accompany the animals whenever they are in transit.
 - c. One copy shall be retained by the person transporting the animals, and
 - d. One copy shall be retained by the owner.
2. If the animals are diverted to a destination other than that stated on the certificate, the certificate is void and the person shall complete and send a new certificate to the Department. The certificate shall be used only with the shipment of the animals bearing the brands for which the certificate is issued and is valid only on the issue date.
3. Any altered, erased, or defaced certificate is void and a new certificate is required. All voided certificates shall be returned to the Department within 10 days after the end of the month in which it was voided. Upon request, unused certificates shall be returned to the Department. If a recorded brand or dairy operation has been sold, leased or transferred, the person shall return all self-inspection certificates for that brand to the Department within 10 days of the transaction.
4. If animals are moved in violation of this Article, the officer may issue a written warning or citation to the shipper, or the owner or agent, and direct that the animals are returned to their owner within 24 hours, or if ownership is questioned, the improperly moved animals may be seized pursuant to A.R.S. § 3-1371 by a Department officer.
5. Any person moving animals pursuant to this Article shall comply with 3 A.A.C. 11 and all applicable rules. Any violation of these laws or rules, or any commission of a crime involving livestock, shall be a violation of this Section.
6. If, after a hearing, the Department determines that there has been a violation of this Article, the Department may impose upon the violator the sanctions established in A.R.S. § 3-1203(D). The hearing shall be conducted pursuant to 41 A.A.C. 6 and all applicable rules.

R3-2-703. Self-inspection for owners or lessees of a brand recorded with the Board, other than dairies and feedlots
Self-inspection For Cattle Destination

- A.** If no change of ownership occurs, a person may move neat animals from one location to another within this state, pursuant to the self-inspection procedure provided for in this Section.
- B.** Any person desiring to use the self-inspection procedure shall first apply to the Arizona Livestock Board on a form specified by the Board. To use the self-inspection procedure, a person must own or lease a brand recorded with the Board and must be approved by the Board. Any person who, within the five years prior to that person's application for

self-inspection, has been found to have violated any of the livestock laws of this state, or any rule of the Board, or to have been convicted of any crime involving livestock, may be disapproved by the Board and shall not then be permitted to use self-inspection.

C. Self-inspection procedures.

1. Persons moving animals pursuant to this shall move only neat animals branded with brands they have recorded with the Board, or unweaned calves if moved with their mothers. Except for such unweaned calves, animals without brands or with unpeeled brands shall not be moved without inspection by a Board inspector. No quarantined animals or animals held by order of any Board employee may be moved.
2. Animals moved under this Section shall not change ownership, shall be moved only within this state, shall be moved by a direct route to their destination, and shall be moved only as follows:
 - a. To a pasture;
 - b. To an Arizona livestock auction bonded under the Federal Packers and Stockyards Act;
 - c. To a feedlot licensed by the Board; or
 - d. To a slaughter establishment licensed by the Board.
3. Each person approved by the Board for self-inspection under this Section will be issued a book of self-inspection certificates, the form of which will be specified by the Board. Whenever any animals are moved, a certificate shall be filled out in quadruplicate, signed by the owner of the animals or his agent, and distributed as follows:
 - a. The original shall be sent to the Board within ten days after the end of the month in which the animals are moved;
 - b. One copy shall accompany the animals at all times they are in transit;
 - c. One copy shall be for the person transporting the animals; and
 - d. One copy shall be retained by the owner.
4. A certificate shall be valid only on the date it is issued. If the animals are diverted to a destination other than that stated on their certificate, that certificate is void and a new certificate must be completed and sent to the Board. Certificates shall be used only in connection with the shipment of animals bearing the brands for which the certificates are issued.
5. Every self-inspection certificate shall be filled out completely and legibly and shall contain at least the following information:
 - a. The exact location from which the animals are being moved;
 - b. The exact location to which the animals are being moved, including the name and exact geographical location of any pasture, or the name and location of any auction, feedlot or slaughter establishment;
 - c. The number of head of calves, cows, heifers, steers and bulls being moved, and the brands and marks they bear; and
 - d. The name of the shipper and the owner of the animals.
6. Certificates shall not be altered. Any certificate altered, eased, or defaced is void and a new certificate must be filled out. All void certificates shall be returned to the Board within ten days after the end of the month in which voided. All unused certificates shall be returned to the Board upon request. Upon any sale, lease or other

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transfer of any recorded brands, all self-inspection certificates for that brand shall be returned to the Board within ten days of such transfer.

- D. If any animals are moved in violation of this Section, the improperly moved animals may be seized pursuant to A.R.S. § 24-291 by a inspector, or the inspector may issue a written warning to the shipper, and direct that such animals be returned within 24 hours to their owner at the expense of the shipper.
- E. Persons moving animals pursuant to this Section shall comply with all other applicable rules of the Board and all applicable provisions of Title 24 of the Arizona Revised Statutes. Any violation of such rules or laws, or any commission of a crime involving livestock, shall also be a violation of this Section.
- F. If the Board determines, after a hearing, that there has been any violation of this Section, the Board may impose upon the violator the sanctions set forth in A.R.S. § 24-104(F). The hearing shall be conducted as provided in A.R.S. § 24-106.
- G. Persons conducting self-inspection pursuant to this Section do not have the enforcement powers otherwise granted to livestock inspectors appointed by the Board.
- A. Any person applying for a self-inspection certificate book for cattle destination movement shall submit the following information to the Department:
 - 1. The name, address, telephone number, social security number, and signature of the applicant;
 - 2. The registered brand, location, ear marks, and brand number;
 - 3. The name of the registered brand owners;
 - 4. The date of the application;
 - 5. The signature and badge number of the livestock officer or inspector assigned to the inspection area.
- B. The owner or operator shall provide the following information on a self-inspection certificate whenever livestock are being moved:
 - 1. The name, address, telephone number, and signature of the owner;
 - 2. The date of the shipment;
 - 3. The location from which the animals are being moved;
 - 4. The location to which the cattle are being moved, including the name of the auction, feedlot, or slaughter establishment;
 - 5. The name of the trucker;
 - 6. The number of calves, cows, heifers, steers and bulls being moved;
 - 7. The brand number, expiration date, location and ear markings.
- C. Self-inspection procedures.
 - 1. Any person moving range cattle shall move only cattle branded with that person's recorded brand or unweaned calves if moved with their mothers. Cattle without brands or cattle with unpeeled brands that are not with their mother shall be moved only with Department inspection. Quarantined cattle, cattle held by order of the Department, or cattle restricted by the State Veterinarian shall not be moved.
 - 2. Cattle moved shall not change ownership, shall be moved by a direct route to their destination, and shall be moved only as follows:
 - a. To an Arizona livestock auction bonded under the Federal Packers and Stockyards Act,
 - b. To a feedlot licensed and inventoried by the Department, or

- c. To a state or federally licensed slaughter establishment.

R3-2-704. Self-inspection For Pasture to Pasture

- A. Any person applying for a cab card for pasture to pasture movement shall submit the following information to the Department:
 - 1. The name, address, telephone number, social security number and signature of the applicant;
 - 2. The registered brand;
 - 3. The names of the registered brand owner;
 - 4. The date of the application;
 - 5. The signature and badge number of the livestock officer assigned in the inspection area.
- B. Self-inspection procedures.
 - 1. Pasture to pasture movement within the ranching operation's inspection district. Cattle owners or operators moving cattle from noncontiguous pastures or allotments on the same ranching operation within the inspection district shall be issued a cab card authorizing the movement of cattle at the owner's or operator's discretion.
 - 2. Pasture to pasture movement outside the inspection district.
 - a. Cattle owners or operators moving cattle from noncontiguous pastures or allotments on the same ranching operation but outside the inspection district shall call the Department dispatch office for an authorization number. The authorization number shall be valid only for the requested day of movement on or before the date the cattle are to be moved.
 - b. The dispatch person shall complete a Notice of Cattle Movement and notify both the officer in the district of origin and the livestock officer at the destination district.

R3-2-705. Self-inspection For Sheep

- A. Any person applying for a self-inspection certificate book for sheep movement shall submit the following information to the Department:
 - 1. The name, address, telephone number, social security number, and signature of the applicant;
 - 2. The date of the application;
 - 3. The signature and badge number of the livestock officer assigned in the inspection area.
- B. The owner or operator shall provide the following information on a self-inspection certificate whenever livestock are being moved:
 - 1. The name, address, and telephone number of the owner;
 - 2. The date of the shipment.
 - 3. The name, address, and telephone number of the person purchasing the sheep;
 - 4. The location from which the animals are being moved;
 - 5. The name of the trucker;
 - 6. The location to which the animals are being moved, including the name of the pasture, auction, exhibit or slaughter establishment;
 - 7. The number of sheep being moved;
 - 8. The brand location and ear markings.

R3-2-706. Self-inspection For Dairy Cattle or Feedlots

- A. Any person applying for a self-inspection certificate book for dairy cattle or feedlot movement shall submit the following information to the Department:
 - 1. The corporate, business or trade name, and permit number of the applicant;

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2. The date of the application;
3. The signature, social security number, and title of the responsible party.
- B. The owner or operator of a dairy shall provide the following information on a self-inspection certificate whenever livestock are being moved:
 1. The name of the owner;
 2. The date of the shipment;
 3. The back tag numbers, if applicable;
 4. The location from which the animals are being moved;
 5. The name of the auction, feedlot or slaughter establishment to which the animals are being moved;
 6. The number of cattle being inspected, the cost of the inspection, and the beef council fees;
 7. The signature of the authorized dairy representative.
- C. The owner or operator of a dairy may sell calves 30 days or younger on a self-inspection certificate by providing the following information:
 1. The address and telephone number of the purchaser;
 2. The date and location of the sale;
3. The number of calves being sold;
4. The cost of the inspection and the beef council fees;
5. The signature of the authorized dairy representative.
- D. The owner or operator of a feedlot shall provide the following information on a self-inspection certificate whenever livestock are being moved:
 1. The name of the seller or owner;
 2. The date of the shipment;
 3. The location, including the county, from which the animals are being moved;
 4. The name of the trucker;
 5. The destination of the animals, including the name of the feedlot or the slaughter establishment;
 6. The name of the consignee;
 7. The brand and number of cows, heifers, steers, and bulls being moved;
 8. The number of cattle being inspected, the cost of the inspection, and the beef council fees;
 9. The signature of the authorized feedlot representative.

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TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| R20-2-701 | Amend |
| R20-2-709 | Amend |
| R20-2-721 | Amend |
| R20-2-750 | Amend |
| R20-2-751 | Amend |
| R20-2-751.01 | Repeal |
| R20-2-752 | Amend |
| R20-2-753 | Amend |
| R20-2-755 | Amend |
| R20-2-756 | Amend |
| R20-2-757 | Amend |
| R20-2-759 | Amend |
| R20-2-760 | Amend |
| R20-2-761 | Amend |
| Table 3 | Repeal |
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Laws 1997, Ch. 117.
 3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Michelle Ringsmuth

Address: Department of Environmental Quality
Air Quality Planning Section
3003 North Central Avenue
Phoenix, Arizona 85012-2809

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Telephone: (602) 207-2372 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for that extension.)
Fax: (602) 207-2366
E-mail: ringsmuth.michelle@ev.state.az.us

4. An explanation of the rule, including the agency's reasons for initiating the rule:

The urbanized area of Maricopa County has been experiencing violations of the National Ambient Air Quality Standards (NAAQS) for ozone ever since the standard was adopted in the late 1970's. Under the federal Clean Air Act Amendments of 1990, this area was classified as a "moderate" nonattainment area for ozone by the Environmental Protection Agency (EPA). However, due to continuing exceedances of the ozone standard, the EPA has recently proposed to redesignate the Phoenix airshed to a "serious" nonattainment area.

In order to address the air quality problems, Governor Symington issued Executive Order (EO) 96-6 on May 24, 1996. EO 96-6 created a Task Force charged with evaluating and recommending measures that could be implemented to reduce the formation of ozone, particulate matter, and carbon monoxide. During the time period of August through September of 1996, the Task Force considered hundreds of suggestions by the general public, private businesses, and governmental entities. Additionally, the Task Force collected and evaluated information related to dozens of ozone control measures adopted by jurisdictions in every area of the country. Based on the evaluation of the information presented to them, on December 2, 1996, the Task Force released their report containing 35 recommended air pollution control measures.

Of the 35 control measures recommended by the Task Force, 2 measures ranked above the rest in their ability to reduce emissions of ozone-forming pollutants and their ability to be implemented in a short time period:

- Opt into the Federal Reformulated Gasoline (RFG) program beginning in the 1997 ozone season; and
- Selection of a gasoline formulation by 1999 for long-term use. Gasoline formulations recommended by the Task Force included: 1) a performance-based gasoline capable of a 10% volatile organic compound (VOC) reduction; 2) Federal Phase II RFG; and 3) California Air Resources Board (CARB) Phase 2 RFG.

Governor Symington acted on the Task Force recommendation by sending a letter to the Environmental Protection Agency (EPA) on January 17, 1997, requesting that the Maricopa County ozone nonattainment area be included in the Federal RFG program beginning June 1, 1997. Opting into the Federal RFG program enabled the implementation of a control measure that had immediate air quality benefits for the 1997 ozone season.

The request by Governor Symington to opt into the Federal RFG program was contingent on the EPA's assurance that Arizona would be able to exit the program in 1998 and implement their own State-enforced program. The State program, if approved by EPA, would mandate the use of a long-term gasoline recommended by the Task Force. This was an important decision that allowed the State the flexibility to implement a program with greater environmental benefits at an earlier time period than would be achieved if Arizona were to remain in the Federal program.

During the 1997 regular legislative session, the choice of a long-term gasoline for the Maricopa County area was debated. Many issues played a key role in the decision of the type of gasoline to require, such as cost of production, cost to consumer, supply and transport issues, and environmental benefits. In order to provide gasoline producers the maximum flexibility and still achieve the greatest environmental benefit possible, the State Legislature passed House Bill (HB) 2307. This bill provides for increasing environmental benefits by requiring gasoline dispensed for use in motor vehicles within Maricopa County to meet the following formulations during the specified time periods:

- From June 1, 1998, through September 30, 1998, gasoline must meet either CARB Phase 2 or Federal Phase I gasoline standards.
- From and after May 1, 1999, gasoline must meet either CARB Phase 2 or Federal Phase II gasoline standards.

Additionally, the gasoline must meet the maximum 7.0 psi summertime vapor pressure requirements contained in A.R.S. § 41-2083(F) and wintertime oxygenate requirements as provided in A.R.S. § 41-2123.

To ensure that a State-enforced gasoline program was in place for the 1998 ozone season, HB 2307 was passed as an emergency measure, operative immediately. The bill required ADEQ, in consultation with the Arizona Department of Weights and Measures (ADWM), to adopt interim rules reflecting the 1998 and 1999 fuel requirements by September 15, 1997.

In order to meet the mandated deadline, ADEQ and ADWM held a series of 10 public workshops with interested parties from May 22 through July 15, 1997, to develop a proposed interim rule that would achieve the following requirements:

- 1) Provide the maximum flexibility for producers and transporters of gasoline to minimize costs and to ensure that the supply of gasoline would not be disrupted,
- 2) Meet the requirements of HB 2307, and
- 3) Contain an enforceable program that meets EPA criteria for approval.

Arizona Cleaner Burning Gasoline (CBG) is the name chosen for the Arizona version of "reformulated gasoline". The Arizona CBG interim rule was proposed by publishing a notice in the newspaper on July, 15, 1997. A public hearing was held on the

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proposed interim rule at ADEQ on August 15, 1997, the date of close of the public comment period.

The Arizona CBG interim rule was adopted by ADEQ on September 12, 1997, and was submitted to EPA as a State Implementation Plan (SIP) revision. EPA currently intends to publish a notice of proposed rule-making (NPRM) regarding the approvability of the rules by November 15, 1997, and a notice of final rule-making (NFRM) by February 1, 1998. The interim rules apply to gasoline distributed for use in motor vehicles in Maricopa County after June 1, 1998, and will remain in effect until October 1, 1998, the proposed effective date of this rule. This is the earliest possible date for this rule since the permanent rule must replace the interim rule and R20-2-751.01, and others, needs to be in effect until September 30, 1997. Upon adoption by ADEQ, the permanent rule will be submitted to EPA as a SIP revision.

The rule contains requirements for every person in the gasoline distribution system to insure that Maricopa County will receive gasoline that meets the requirements mandated by HB 2307 and provides significant benefits to the air quality. The provisions of this rule will be enforced by the Department of Weights and Measures. An explanation of formatting and citation changes to the permanent rule as well as summary of each section of the rule is provided below.

Explanation of Formatting and Citation Changes to the Permanent Arizona CBG Rule

The structure of R20-2-751 after (D)(3) has changed in comparison to ADEQ copies of the published interim rule. This was due to a Secretary of State rule (R1-1-408) that prohibits more than 4 levels of subdivision in a Section. When the Secretary of State published the ADEQ interim rule, extra levels of subdivision were reduced: (D)(4) has become E, D(5) became F, E became G, etc. Internal text citations, however, were not corrected, and these are shown as the changes to the interim rule at the following locations:

All changes from R20-2-751(C) on other than the deleted references to R20-2-751.01.

Changes in R20-2-701(28) and (45).

In addition, in R20-2-751 and R20-2-751.01, text after (D)(2)(b)(ii) was renumbered by the Secretary of State to "iii" and "3", respectively. ADEQ is proposing to renumber the text in R20-2-751 to "3", with subsequent paragraphs and related internal text citations renumbered to conform.

Section-by-Section Explanation of the Proposed Rule

R20-2-701 Definitions. The interim rule contained 36 new definitions.

R20-2-709 This section provides record retention requirements for service stations and fleet owners. For all motor fuels other than Arizona CBG, documentation to verify the quantity and grade of each motor fuel delivered shall be retained for at least the 3 most recent deliveries of each grade or motor fuel. For Arizona CBG, the product transfer documents (PTDs) for each shipment of gasoline delivered in the preceding 12 months is to be maintained. The PTDs for the 3 most recent deliveries is to be maintained on the premises. The remainder of the documentation shall be available within 2 working days from the time of request by the director.

During the comment period for the Interim Arizona CBG rule, ADEQ received 1 comment requesting that the record retention time period be changed from 4 days to 3 days. ADEQ did not have the authority to change these record retention requirements during the Interim Arizona CBG rulemaking process since these were existing rules. ADWM will be proposing revisions to R20-2-709 in a separate rulemaking in which the record retention time period is modified from 4 days to 3 days. Therefore, for consistency, this rule also proposes to modify this record retention requirement. ADEQ and ADWM are soliciting comments on this change for the permanent rule.

ADEQ received a comment during the interim rulemaking requesting that R20-2-709(B) allow the use of codes communicated on PTDs. ADEQ and ADWM have determined that this type of change is inappropriate in the Arizona CBG rulemaking due to the number of interested parties outside of the Arizona CBG rulemaking process.

R20-2-721 This section provides the methodology for sample collection and a list of facilities for which ADWM or its authorized agents shall collect and analyze samples. This section also provides that all documentation required by this Article shall be available for inspection by ADWM or its authorized agents. ADWM will be proposing to delete R20-2-721(B) in a separate rulemaking. For consistency, this rule also proposes the deletion of R20-2-721(B). ADEQ and ADWM are soliciting comments on the deletion of R20-2-721(B).

R20-2-750 This section provides registration requirements for refiners, importers, oxygenate blenders, pipelines, and 3rd-party terminals that will be producing, importing, or otherwise handling Arizona CBG or AZRBOB. The registration is required to be on forms prescribed by the director, and shall be resubmitted within 10 calendar days after the effective date of any changes.

R20-2-751 This section provides the standards that all Arizona CBG within the gasoline distribution system must meet on or after May 1, 1999. Additionally, producers or importers (referred to as registered suppliers) are required to meet more stringent standards than the standards that apply throughout the distribution system. Registered suppliers may elect the standards for which they will comply: Type 1 averaging option or non-averaging option, Type 2 averaging option, non-averaging option, or predictive model. This election is to be submitted to ADWM prior to transport of Arizona CBG to Maricopa County, and must be resubmitted when a change in the election occurs.

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This section outlines the requirements for meeting each of the standards chosen by the registered supplier, as well as the consequences of failing to meet the standards.

- R20-2-752 This section requires all registered suppliers to:
- Certify each batch of Arizona CBG and to provide ADWM with the certification information on a monthly basis;
 - Retain records regarding the sampling and analysis of Arizona CBG. These records shall be maintained for a period of 5 years and are to be submitted to ADWM within 20 working days of a written request;
 - Notify ADWM by facsimile prior to transport of Arizona CBG or AZRBOB to Maricopa County by means other than a pipeline; and
 - Conduct a quality assurance/quality control (QA/QC) program or an independent testing program, unless exempt under R20-2-752(G).
- R20-2-753 This section includes requirements that must be met in order for a pipeline or 3rd-party terminal to accept Arizona CBG or AZRBOB for transport. Pipelines and 3rd-party terminals are required to collect a sample of each incoming batch of gasoline, notify the director if the batch does not meet the standards applicable throughout the distribution system, and develop and submit a QA/QC program to ADWM for approval. Additionally, pipelines are required to conduct sample analysis at a frequency of no less than 1 sample from 1 batch completing shipment per supplier per day at each input location. A monthly report summarizing the pipeline's laboratory testing results is to be submitted to ADWM within 10 calendar days of the end of each month.
- R20-2-754 During the process of moving petroleum products, the interface where different petroleum products meet may create a mixture of petroleum distillate and gasoline that does not meet the Arizona standards for either petroleum distillate fuels or gasoline. This mixture is called transmix. This section allows pipelines to blend transmix into Arizona CBG or AZRBOB at a rate of no more than 1/4 of 1% and provides methods to be used to measure the rate of transmix blending.
- R20-2-755 This section provides requirements for blending of oxygenate into AZRBOB, determining if the AZRBOB complies with the applicable standards, and recordkeeping and retention requirements. Registered suppliers that supply AZRBOB from their production or import facility are required to have a quality assurance sampling and testing program. Oxygenate blenders are required to add the specified types and quantities of oxygenate to the AZRBOB supplied by the registered supplier, following the requirements for terminal blending, blending into trucks, or in-line blending, if applicable. Oxygenate blenders are required to submit a QA/QC program demonstrating the accuracy and effectiveness of their laboratory testing to ADWM for approval. Additionally, this section provides restrictions for transferring AZRBOB and for blending AZRBOB with other products.
- R20-2-756 This section provides restrictions on blending Arizona CBG with nonoxygenate blendstocks. This activity is allowed only under the following circumstances:
- The blendstock that is added to the Arizona CBG meets all of the Arizona CBG standards without regard to the properties of the gasoline to which the blendstock is added and the person meets all of the requirements applicable to producers of Arizona CBG; and
 - The person obtains prior approval of the director. This approval shall be based on a demonstration that adding the blendstock to previously certified batch or mixture of certified batches of Arizona CBG is a reasonable means of bringing the gasoline into compliance with the applicable standards for Arizona CBG. The rebled Arizona CBG shall be recertified by the oxygenate blender or registered supplier.
- R20-2-757 On each occasion when custody or title of Arizona CBG or AZRBOB is transferred, the transferor is required to provide the transferee with a product transfer document (PTD). The PTD provides information related to the custody, transfer date, transfer volume, physical characteristics, oxygenate requirements, oxygenate content, as well as other information related to the Arizona CBG or AZRBOB. Additionally, this section includes record retention requirements for PTDs which, upon request, shall be photocopied and presented to ADWM.
- R20-2-758 This section incorporates by reference the California Predictive Model and the Federal Complex Model.
- R20-2-759 This section provides the testing methodologies for analysis of gasoline samples.
- R20-2-760 Each registered supplier that elects to comply with the averaging standards is required to conduct compliance surveys in accordance with a survey program plan approved by ADWM. The survey shall be planned and conducted by a person who is independent of the registered supplier. This section provides criteria for the number of surveys that shall be conducted, the time periods during which the surveys are to be conducted, general survey requirements, procedures for seeking director approval of the survey plan, and methodology for determining survey results.

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R20-2-761 This section outlines the liability of each person within the distribution system. Parties that would be liable under this section may be deemed to not be in violation if they can demonstrate that:

- The violation was not caused by the regulated party, its employee, or agent;
- PTDs account for all of the gasoline in the storage tank found in violation and indicate that the gasoline met applicable requirements; and
- The facility has conducted a quality assurance sampling and testing program, except that any person that transfers Arizona CBG or AZRBOB but does not assume title may rely on the quality assurance program carried out by another party, including the party that owns the Arizona CBG or AZRBOB in question, provided that the quality assurance program is carried out properly.

Additional defenses must be shown by facilities that are operating under the corporate, trade or brand name of a registered supplier in order for these facilities to be deemed not in violation.

R20-2-762 This section outlines the penalties applicable to any person who violates the provisions of this article.

5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

6. **The preliminary summary of the economic, small business, and consumer impact:**

I. Rule Identification

The Arizona Department of Environmental Quality (ADEQ), in consultation with the Arizona Department of Weights and Measures (ADWM), is proposing A.A.C. R20-2-701 through R20-2-762, known as the Arizona Cleaner Burning Gasoline (CBG) rule. The statutory authority for this rule is contained in Laws 1997, Ch. 117 (House Bill 2307).

Title 20: Commerce, Banking, and Insurance

Chapter 2: Department of Weights and Measures

Article 7: Motor Fuels and Petroleum Products §§ 701-762

II. Introduction

The primary purpose of the Arizona CBG rule is to permanently implement the provisions of the interim Arizona CBG rule, adopted by ADEQ on September 12, 1997, and published in the *Arizona Administrative Register* on October 3, 1997. The Arizona CBG rule provides requirements for every person in the gasoline distribution system to ensure that Maricopa County will receive gasoline meeting stringent standards that provide for improved air quality. Air pollutants that will be reduced by the implementation of this rule include ozone-forming air pollutants such as volatile organic compounds (VOCs), carbon monoxide (CO), and nitrogen oxides (NO), as well as particulate matter (PM).

Gasoline distribution for the Maricopa County area, as well as for Arizona, is dependent on out-of-state refiners and 1 pipeline company. Refiners transport the gasoline from either El Paso or Los Angeles to Arizona through the Santa Fe Pacific pipeline (SFPP) system. Virtually all of the gasoline shipped to Maricopa County is via the SFPP, which handles gasoline, as well as other refined fuels. In some instances, the supplying refiners may ship the gasoline to a community gasoline storage facility (known as 3rd-party terminals) prior to transport to the pipeline. At the 3rd-party terminal, gasoline from different refineries may be stored in common tankage. The gasoline distribution system is fungible, which means, gasoline of the same grade from different batches produced by the same refiner or batches from different refiners may be mixed together in the 3rd-party storage tanks or at breakout tankage at the pipeline. Once the gasoline arrives in Maricopa County, it is transferred from the pipeline to local bulk terminals which handle the distribution of the gasoline to tank wagon fleets. Finally, the gasoline is distributed to the retail outlets and fleet vehicle fueling stations. The Arizona CBG rule contains provisions for gasoline sampling and analysis, documentation, and recordkeeping to ensure that the gasoline meets the applicable standards at each step within the gasoline distribution system.

The Arizona CBG rule provides refiners and importers flexibility to produce gasoline that complies with standards similar to either the California Phase 2 Reformulated Gasoline (CARB Phase 2) or the Federal Phase II Reformulated Gasoline (Federal Phase II) standards (If approved by EPA, Arizona would be the only 2 gasoline formulation program in the United States. Arizona chose to implement this 2 gasoline system to reap the benefits of a more competitive gas market.). Additionally, the Arizona CBG rule allows gasoline producers or importers to choose to comply with either a per-gallon standard or an averaging compliance option. The per-gallon standards require that every gallon of gasoline produced by the refiner meet a specified standard for each of the regulated gasoline components. The averaging compliance option allows facilities to produce gasoline that meets standards lower than the per-gallon standard limits as long as the overall average of all gasoline produced by the facility for transport to Maricopa County meets a more stringent standard when averaged over a specified time-frame. This is referred to as the "Arizona average" since it requires refiners to track separately any gasoline produced for shipment to Maricopa County.

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III. Classes of Persons Affected

Potential classes of persons affected by this rulemaking include: oil importing and refining companies (known in the proposed rule as "registered suppliers"), the SFPP, 3rd-party terminals, bulk terminals, gasoline distributors, gasoline transporters, ADEQ as the adopting agency, ADWM as the implementing agency, and the general public of Maricopa County. These persons will be affected by the CBG rule in varying degrees both from 1 class to another and within certain classes. A brief discussion of the anticipated affects on each of these classes is provided in the following paragraphs.

A. REGISTERED SUPPLIERS AND 3rd-party TERMINALS

The enforcement of gasoline standards within Maricopa County has, and will, rely heavily on collection and analysis of samples within the Maricopa County area. However, as stated previously, all of the oil refining and importing companies (registered suppliers) and 3rd-party terminals that currently produce, import, or otherwise handle gasoline for transport into Maricopa County are located outside of Arizona. For this reason, the Arizona CBG rule relies more heavily on sample analysis performed by each of these facilities, as well as recordkeeping and reporting to demonstrate that the gasoline is complying with the appropriate gasoline standards. Additionally, each of these facilities must demonstrate to ADWM that their laboratory is meeting minimum standards to ensure the accuracy of the laboratory analysis. This is done through the submittal to ADWM for approval of a laboratory quality assurance/quality control (QA/QC) plan. It is estimated that at least 10 registered suppliers and 3 3rd-party terminals will be affected by these requirements.

B. SANTA FE PACIFIC PIPELINE

Ninety-nine percent of Arizona's gasoline is transported to Maricopa County through the Santa Fe Pacific pipeline. For liability reasons, the pipeline has implemented a laboratory testing program to verify that the gasoline input into the pipeline system meets the appropriate standards. The Arizona CBG rule does not contain any additional sampling and analysis requirements that were not previously performed by the pipeline. However, the rule does contain additional recordkeeping and reporting requirements that allow ADWM to utilize gasoline analysis information collected by SFPP.

C. GASOLINE DISTRIBUTORS, TRANSPORTERS, FLEET VEHICLE FUELING STATIONS, AND RETAIL FACILITIES

Anticipated affects from the implementation of this rule to gasoline distributors, transporters, fleet vehicle fueling stations and retail facilities are minimal. As with previous gasoline rules for Maricopa County, the proposed Arizona CBG rule requires that a product transfer document (PTD) accompany the gasoline each time Arizona CBG is transferred. The PTD contains information relating to the physical characteristics of the gasoline and indicates that the gasoline is Arizona CBG for sale in Maricopa County. Each person handling gasoline within Maricopa County will be required to verify on the PTD that the gasoline is Arizona CBG and to maintain a copy of the PTD for a specified time period.

D. GOVERNMENTAL AGENCIES

Governmental agencies impacted by Arizona CBG include ADEQ and ADWM. ADEQ will be adopting the rule and will submit the adopted rule to EPA as a SIP revision. Once adopted by ADEQ and approved by EPA, ADWM will implement and enforce the rule.

E. THE PUBLIC/ENVIRONMENT

Members of the public that will be most affected by the implementation of the Arizona CBG rule include the residents of Maricopa County and surrounding areas. Benefits to the health of the general public will be observed for all people that live in Maricopa and surrounding areas. Additionally, residents outside of but near Maricopa County and people that visit the Maricopa County area will experience improved air quality. Moreover, animal and environmental welfare affected by air pollution will be improved.

The general public will also be affected by the implementation of this rule due to the increased cost of the gasoline. Cost associated with the use of Arizona CBG will be limited to those people that purchase gasoline within Maricopa County. Exceptions include automobile racetracks and automobile proving grounds located in Maricopa County. Classes of consumers affected by the rule include:

- Motor vehicle operators;
- Lawn and landscaping equipment operators;
- Golf cart operators; and
- Operators of other gasoline-powered off-road equipment.

Approximate annual gasoline consumption in Maricopa County during the years 1993 through 1995 was (MathPro, p. 21):

- 1993 1,002.5 million gallons,
- 1994 1044.7 million gallons,
- 1995 1081.1 million gallons.

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In addition to the residents of Maricopa County and surrounding areas, residents of other counties may be affected if they purchase gasoline in Maricopa County or during instances when Arizona CBG is sold outside Maricopa County.

IV. Anticipated Impacts on Employment, Revenues, and Expenditures

This rulemaking is expected to have minimal impacts on ADEQ and ADWM's employment requirements. In particular, ADEQ does not anticipate hiring additional staff due to the Arizona CBG rule. ADWM anticipates hiring 1 person to assist in executing the rule.

This rulemaking will have no direct impact on state revenues because it is not a revenue-raising rule. However, the EPA and the Federal Highway Administration may withhold federal highway funds in the event that Maricopa County is unable to meet specified air quality requirements. Even though Arizona CBG prices will be a few cents higher than conventional gasoline prices, this modest price increase is not expected to reduce gasoline sales; thus, no change in gasoline tax collections is likely to occur because of this rule.

ADEQ anticipates that a small number of out-of-state jobs may be added at oil refineries to oversee the Arizona market. Additionally, out-of-state jobs may be added for the purpose of laboratory testing of gasoline and for conducting retail surveys. ADEQ expects employment levels at the retail level to remain unchanged.

V. Cost-Effectiveness Analysis

Based on data from Assessment of Fuel Formulations for Maricopa County (Mathpro; November 7, 1996), a study conducted for the state, the cost effectiveness for the production of gasoline meeting the Federal Phase II standards or the CARB Phase 2 standards ranges from \$22,000 to \$41,000 per ton of VOC reduced (See attached Exhibit 6.9). This cost effectiveness has been calculated by evaluating the costs associated with producing gasoline that meets the Federal Phase II standards or the CARB standards and comparing these costs with the anticipated emissions reductions. It is anticipated that the cost effectiveness for implementation of the Arizona CBG rule will be lower than those of the Federal Phase II and CARB Phase 2, since this rule provided refineries with greater flexibility than the CARB and Federal regulations. A discussion of the benefits and costs of this rule is provided below.

A. BENEFITS

The benefits resulting from the implementation of the Arizona CBG rule consist of benefits to humans, animals, trees, plants, and materials.

1. Benefits to Humans

The primary purpose of Arizona CBG is to reduce ozone pollution, which reaches unhealthful levels in Maricopa County. Health effects of ozone include damage to the respiratory system, reduced breathing capacity and chest pain, headache, nasal congestion and sore throat. Individuals with chronic respiratory diseases are especially susceptible to ozone.

Unlike most air pollutants, ozone is not emitted directly into the air from tailpipes or smokestacks; ozone is formed when sunlight and heat act upon VOCs and NO_x in a series of complex chemical reactions in the atmosphere. In Maricopa County, 35% of the manmade VOC emissions are caused by on-road vehicles (cars, trucks) and approximately 23% are from off-road sources (lawn mowers, trimmers, construction equipment, etc.). The use of CBG is anticipated to reduce VOC emissions from vehicles and gasoline-powered equipment tailpipes by approximately 10%.

In addition to ozone, the use of Arizona CBG will reduce vehicle emissions of particulate matter, which also reaches unhealthful levels in Maricopa County. Particulate matter causes irritation and damage to respiratory systems, resulting in difficult breathing, inducement of bronchitis, and aggravation of existing respiratory diseases. Epidemiological studies indicate increased health risks associated with exposure to PM, alone or in combination with other air pollutants. PM-related increases in individual health risks are small, but likely significant from an overall public health perspective because of the large numbers of individuals in susceptible risk groups that are exposed to ambient PM. PM₁₀ and indicators of fine particles are more consistently associated with health risks than indicators of coarse particles. See EPA (1996).

Carbon monoxide emissions will also be reduced due to the implementation of the Arizona CBG rule. During the summertime, CO contributes to the formation of ozone. During the winter, CO reaches unhealthy levels. Health affects of elevated CO levels include a reduction in the ability of blood to carry oxygen in the body.

An additional benefit to the implementation of the Arizona CBG rule may be a reduction in toxic air pollutants. This reduction in toxic air pollutants is not required by the Arizona CBG rule; however, the reduction may occur due to the new gasoline standards that will be required under the rule. Toxic air pollutants are chemicals which are of concern due to the potential to cause cancer, birth defects, damage to the nervous system, or which may be poisonous. Additionally, toxic air pollutants may cause adverse environmental effects. Toxic air pollutants that will be reduced by the use of CBG include benzene, a known carcinogen, and 1,3-butadiene (aldehyde emissions increase slightly).

2. Benefits to Animals, Plants, Trees, and Materials

Ozone injures animals, certain plants, trees, and materials. Experiments indicate even at low concentrations, animals may be injured if exposed to the ozone for long periods (*Air Quality in Arizona*, May 1988). Injuries from ozone to plants include chlorosis, necrosis, and pigment formation (Godish, 1991). Impacts from ozone to materials include the fading of textile materials

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and cracking in rubber compounds stretched or under pressure (Godish, 1991). In particular, "rubber cracking was 1 of the 1st effects of smog observed in the Los Angeles area" (Godish, 1991).

B. COSTS

The social cost to society, namely Maricopa County residents, due to the implementation of this rule is mainly comprised of impacts on the gasoline distribution system, slightly higher gas prices, and reductions in fuel mileage. Other social costs include costs incurred by ADWM as the implementing agency.

1. Adoption and Implementation Costs

As the adopting and implementing agencies, ADEQ and ADWM will experience costs with the implementation of the Arizona CBG rule. The state appropriated \$50,000 to ADEQ for the adoption of Arizona CBG rules and \$150,000 to ADWM for the implementation and enforcement of Arizona CBG rule. ADWM anticipates an annual cost of approximately \$290,000 for the implementation and enforcement of the rule. This cost includes the addition of 1 staff person, the cost of conducting audits of regulated facilities that are located outside of Arizona, and gasoline sampling and analysis.

2. Increased Cost of Arizona CBG

The cost to produce Arizona CBG is slightly more than the cost to produce conventional gasoline. The increased costs associated with producing gasoline that complies with the federal Phase II standards has been estimated at \$0.02-0.05 per gallon, while producing gasoline that complies with the CARB Phase 2 standards costs \$0.02-0.10 more per gallon (MathPro, 1996). Based on Maricopa County's annual gasoline consumption for 1995, the increased cost of production of Arizona CBG may be estimated at an additional \$19.8 - \$49.6 million per year, assuming the increased cost is comparable to those of the federal Phase II gasoline. This cost may be higher for those refiners that choose to produce gasoline that complies with the standards similar to the CARB Phase 2 standards. Due to competition among suppliers of gasoline, as well as market forces that impact the prices of gasoline, it is unknown how the cost differential will be allocated between producers and consumers. The Maricopa County gasoline market will determine this allocation. However, as shown in Tables 1 through 3, United States Department of Energy surveys show that the price differential between reformulated and conventional gasolines averages 2 to 3¢ per gallon in other areas of the country where reformulated gasoline is marketed.

3. Give Away of Excess Quality

Excess quality give away occurs when county and statewide standards differ and those counties with less stringent standards receive higher-quality gasoline meeting more stringent standards due to excess supply of the high quality gasoline. MathPro estimated that prior to the sale of reformulated gasoline in Maricopa County, the total cost of excess quality due to RVP and octane give-away in Arizona and other areas supplied through the SFPP southern pipeline system was approximately \$9-12 million annually (MathPro, 1996).

Excess quality give away is a social cost, incurred by the whole society. It is unclear how the costs associated with excess quality give away will be allocated. This allocation may occur between refiners and consumers and/or between consumers inside and outside of Maricopa County. The gasoline distribution system as a whole has a financial interest in minimizing the extent of quality give-away. Two companies, which supply approximately 25% of the gasoline volume in the Phoenix and Tucson markets, have taken steps to minimize the excess quality in their supplies to the Phoenix and Tucson markets (MathPro, 1996).

4. Increased Distribution (Transportation/Pipeline) Costs

It is anticipated that transportation costs may increase slightly due to the implementation of the Arizona CBG rule. In particular, the pipeline must ensure that the batches of Arizona CBG are not mixed with conventional gasoline. However, the pipeline currently separates the various grades of conventional gasoline; therefore, this should not create a significant cost. A minimal increase in transportation costs may occur due to the need to train personnel on the PTD recordkeeping requirements and the locations where Arizona CBG and conventional gasoline are to be sold.

5. Reduced gas mileage with CBG

Arizona CBG contains slightly less energy than conventional gasoline; therefore, average vehicle mileage in some cases may be reduced 2 to 3%. This effect has been documented by research conducted by both EPA and the California Air Resources Board.

C. FACTORS MITIGATING COSTS

The Arizona CBG rule has been designed to provide the greatest air quality benefits while ensuring maximum flexibility to those regulated by the rule. This flexibility that is provided to the regulated community should assist in mitigating the costs associated with the implementation of the rule. Examples of provisions within the rule which provide flexibility include:

- Registered suppliers may produce gasoline that meets standards similar to either the CARB Phase 2 or the Federal Phase II standards. This flexibility will encourage gasoline companies to be more competitive than if all of the gasoline in Arizona to meet 1 standard.
- Registered suppliers may elect to comply with either averaging or non-averaging standards.
- Registered suppliers are permitted to choose between implementing an independent laboratory analysis testing program or submitting a quality control/quality assurance testing program to ADWM for approval. This flexibility should assist registered suppliers to minimize costs while maintaining the necessary level of testing and laboratory assurance to ensure that

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the gasoline shipped to Maricopa County meets the applicable standards.

An additional factor that will mitigate the costs associated with the implementation of this rule is the layout of the gasoline distribution system. Many refineries that currently supply conventional gasoline to Arizona already produce gasoline meeting the CARB Phase 2 and Federal Phase I standards for other reformulated gasoline markets. The implementation of Arizona CBG will provide an additional market for these refineries that have already made capital investments to produce cleaner burning gasoline. Additionally, the large number of refiners capable of supplying compliant gasoline to the Maricopa County market should promote competition, thereby mitigating costs to consumers.

D. CONCLUSION

Based on all of the foregoing, ADEQ has determined that the benefits exceed the costs of this rule.

VI. General Impact on Small Businesses

The Arizona CBG rule may effect small businesses such as family-owned gas stations located in Maricopa County (Also, family-owned gasoline stations outside Maricopa County may be affected if they receive excess quality gasoline. For instance, retail outlets outside of Maricopa County may receive excess CBG rather than conventional gasoline.). For instance, consumers who cross the Maricopa County border daily may choose to purchase non-reformulated gasoline outside Maricopa County rather than buying higher-priced Arizona CBG. In addition, higher gasoline prices that may occur due to the implementation of the Arizona CBG rule could impact small businesses that purchase gasoline in Maricopa County.

This rulemaking has lessened the effect on small business by minimizing the paperwork and recordkeeping requirements on gasoline retail outlets which may be small businesses.

A. RULE IMPACT REDUCTION ON SMALL BUSINESSES

A.R.S. § 41-1035 requires ADEQ to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. The 5 listed methods are:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

B. THE STATUTORY OBJECTIVES WHICH ARE THE BASIS OF THE RULEMAKING

The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in number 2 of this preamble. Two objectives are stated in A.R.S. § 41-2124(C):

1. Achieve air quality benefits for the Maricopa County nonattainment area by following the 2-fuel formulation option prescribed A.R.S. § 41-2124(A) and (B).
2. Provide requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A and B.

The 3rd statutory objective is stated in A.R.S. § 41-2124(A) and reinforced by section 4 of HB 2307. The fuel program should be constructed so that a waiver can be granted by EPA pursuant to section 211(c) (4) of the CAA. Among other things, EPA criteria require that a state fuels program be [as] effective and enforceable [as the federal RFG program].

In light of the 3rd statutory objective, ADEQ has determined that it is not legal or feasible to adopt any of the 5 listed methods to reduce the impact of these rules on small businesses. While attempting to create an enforceable program, ADEQ and ADWM focused much of their efforts on the large oil producers, all of which are out of state. Due in large part to the fact that these large producers are out of state, ADWM needs additional program components that focus on the smaller in-state fuel providers, including service stations, many of which are small businesses. Without the ability to stop the sale of off-spec gasoline, for example, something which may have a significant effect on a small service station, ADEQ and ADWM have determined that the CBG program would not be approvable. This determination may change if modifications are made to ADWM's penalty and enforcement authority. During the workshops on this rule, there was considerable discussion of, and support for, statutory changes which would augment ADWM's penalty and enforcement authority. Should such amendments take place, it is possible that it would be legal and feasible to reduce the impact of the CBG program on small businesses through 1 of the listed methods.

VII. Alternative Rulemaking Provisions

The Arizona CBG rule has been designed to achieve the following:

- Provide the maximum flexibility for producers and transporters of gasoline to minimize costs and to ensure that the supply of gasoline would not be disrupted;

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- Meet the requirements of HB 2307; and
- Contain an enforceable program that meets the EPA criteria for approval.

In order to develop a rule which met all of these requirements, ADEQ and ADWM held a series of 10 public workshops with interested parties during the time period from May 22 through July 15, 1997. During these public workshops, a variety of provisions from the California and federal reformulated gasoline control regulations were analyzed. Affected and interested parties, ADEQ and ADWM debated each of these provisions, and incorporated the most beneficial of the provisions into the Arizona CBG rule.

VIII. References

Air Quality in Arizona. 1988. Research report prepared by Center for Advanced Research in Transportation, Arizona State University, May 22-25, 1988 (52nd Arizona Town Hall)

Environmental Protection Agency. May 1996. Air Quality Criteria for Particulate Matter.

Godish, Thad. 1991. Air Quality, 2nd edition. Chelsea, Michigan: Lewis Publishers, Inc.

MathPro, Inc., November 7, 1996. Assessment of Fuel Formulation Options for Maricopa County.

Table I
 COMPARISON OF CONVENTIONAL AND REFORMULATED GASOLINE PRICES

TEXAS 1995	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January	59.4	65.8	6.4		52.9	58.9	6.0
February	61.5	67.1	5.6		54.7	60.1	5.4
March	61.2	64.6	3.4		54.8	57.4	2.6
April	70.7	72.9	2.2		63.5	65.7	2.2
May	75.8	78.8	3.0		68.9	71.3	2.4
June	70.2	74.0	3.8		63.1	66.3	3.2
July	63.0	66.8	3.8		55.4	58.9	3.5
August	64.3	67.3	3.0		56.8	59.9	3.1
September	64.1	67.0	2.9		56.8	59.8	3.0
October	59.4	61.5	2.1		51.6	54.3	2.7
November	59.3	61.1	1.8		52.0	53.9	1.9
December	61.8	64.2	2.4		54.3	56.9	2.6
AVERAGE	64.23	67.59	3.37		57.07	60.28	3.22

TEXAS 1996	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January	63.3	66.0	2.7		55.2	56.9	1.7
February	64.1	66.8	2.7		56.2	58.4	2.2
March	71.5	73.9	2.4		64.2	59.2	-5.0
April	80.1	83.3	3.2		72.4	66.2	-6.2
May	79.2	82.1	2.9		71.6	75.3	3.7
June	72.8	73.2	0.4		65.3	73.6	8.3
July	73.4	73.6	0.2		65.7	65.1	-0.6
August	72.9	73.0	0.1		65.1	66.3	1.2
September	73.4	74.5	1.1		65.7	65.7	0.0
October	75.8	77.3	1.5		68.2	66.7	-1.5
November	78.5	79.4	0.9		70.9	69.6	-1.3
AVERAGE	73.18	74.83	1.65		65.50	65.73	0.23

Source: U.S. Department of Energy, Energy Information Administration

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Table 2

COMPARISON OF CONVENTIONAL AND REFORMULATED GASOLINE PRICES

CALIFORNIA 1995	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January	71.5	69.7	-1.8		61.3	61.8	0.5
February	65.7	69.7	4.0		56.0	91.4	5.4
March	67.0	69.2	2.2		57.8	61.1	3.3
April	72.6	74.4	1.8		63.8	65.9	2.1
May	75.5	76.4	0.9		66.5	68.0	1.5
June	74.1	72.6	-1.5		64.6	63.6	-1.0
July	72.2	71.5	-0.7		62.8	62.4	-0.4
August	71.7	72.3	0.6		62.5	63.9	1.4
September	71.4	71.1	-0.3		62.4	62.6	0.2
October	72.7	70.9	-1.8		63.4	63.7	0.3
November		72.4				63.4	
December		71.4				63.0	-0.6
AVERAGE	71.44	71.80	0.34		63.60	63.40	1.15
CALIFORNIA 1996	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January			0.0		61.8	62.4	0.6
February			0.0		60.0	65.8	5.8
March			0.0		71.6	72.5	0.9
April			0.0		83.4	90.1	6.7
May			0.0		95.3	87.4	-7.9
June			0.0		85.2	83.8	-1.4
July			0.0		79.1	82.5	3.4
August			0.0		78.7	67.3	-11.4
September			0.0		80.0	70.1	-9.9
October			0.0		75.4	69.4	-6.0
November					70.6	63.3	-7.3
AVERAGE					76.46	74.05	-2.41

Source: U.S. Department of Energy, Energy Information Administration

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Table 3

COMPARISON OF CONVENTIONAL AND REFORMULATED GASOLINE PRICES

ARIZONA 1995	All Grades Conventional RACK	Pipeline Tariff	Adjusted Price		California All Grades RFG RACK	Price Difference
January	60.1	2.7	57.4		61.8	4.4
February	60.7	2.7	58.0		61.4	3.4
March	61.6	2.7	58.9		61.1	2.2
April	67.9	2.7	65.2		65.9	0.7
May	71.2	2.7	68.5		68.0	-0.5
June	67.5	2.7	64.8		63.6	-1.2
July	64.7	2.7	62.0		62.4	0.4
August	64.3	2.7	61.6		63.9	2.3
September	65.0	2.7	62.3		62.6	0.3
October	63.0	2.7	60.3		63.7	3.4
November	61.1	2.7	58.4		63.4	5.0
December	62.1	2.7	59.4		63.0	3.6
AVERAGE	64.10		61.41		63.40	1.99

ARIZONA 1996	All Grades Conventional RACK	Premium RFG RACK	Price Difference		California All Grades RFG RACK	Price Difference
January	62.3	2.7	59.6		62.4	2.8
February	64.8	2.7	62.1		65.8	3.7
March	76.3	2.7	73.6		72.5	-1.1
April	84.0	2.7	81.3		90.1	8.8
May	84.5	2.7	81.8		87.4	5.6
June	78.9	2.7	76.2		83.8	7.6
July	79.7	2.7	77.0		82.5	5.5
August	75.1	2.7	72.4		67.3	-5.1
September	77.1	2.7	74.4		70.1	-4.3
October	72.2	2.7	69.5		69.4	-0.1
November	66.2	2.7	63.5		63.3	-0.2
AVERAGE	74.65		71.95		74.05	2.10

Source: U.S. Department of Energy, Energy Information Administration

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Exhibit 6.9: Cost-Effectiveness, Refining and Mileage Costs, and VOC, NO_x, and CO
Emission Reductions, by Fuel Reformulation Option - Summer Season

Measure	Baseline Emissions	Fuel Formulation Options						
		Federal RFG			California RFG	GAPEP	Low RVP	10% VOC Reduction
		Phase 1	Phase 1/7.0 RVP	Phase 2				
Cost-effectiveness (\$M/ ton of VOCs) 1999								
Complex Model		\$63	\$28	\$25	\$41	\$18	-	\$18
Predictive Model		\$34	\$22	\$23	\$37	\$15	-	\$17
2010								
Complex Model		\$215	\$78	\$63	\$98	\$33	-	\$36
Predictive Model		\$113	\$62	\$56	\$73	\$24	-	\$36
Refining and Mileage Costs (\$/gal)								
Incremental Refining Cost		3.7	3.8	5.1	11.5	2.0	0.2	4.6
Cost of Mileage Loss*		3.7	3.7	4.2	5.8	0.2	-0.2	2.1
Total Unit Costs		7.4	7.5	9.3	17.3	2.3	-0.0	6.7
Maricopa County Cost (\$/day)**								
1999		\$245	\$247	\$307	\$571	\$74	-	\$223
2010		\$474	\$474	\$571	\$981	\$105	-	\$376
Vehicle Emission Reduc- tions (tons/day)								
VOCs								
1999								
Complex Model	140.4	3.9	8.7	12.5	14.1	4.2	2.4	12.1
Predictive Model	140.5	7.2	11.0	13.3	15.5	5.0	0.5	12.9
2010								
Complex Model	100.1	2.2	6.1	9.0	10.0	3.2	2.2	8.8
Predictive Model	99.8	4.2	7.6	10.2	13.4	4.4	0.3	10.4
NO _x								
1999								
Complex Model	96.6	0.3	0.2	2.0	8.2	1.3	-0.2	0.0
Predictive Model	96.2	1.1	1.1	2.8	8.8	2.6	-0.2	1.2
2010								
Complex Model	97.7	0.4	0.3	2.2	8.8	1.5	-0.2	0.1
Predictive Model	96.3	1.5	1.5	3.0	8.9	3.2	-0.1	1.2
CO								
1999	1048.5	108.8	118.6	143.3	198.3	44.5	20.4	38.6
2010	789.0	81.6	89.1	107.7	148.8	33.3	15.3	29.0

7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: David Lillie or Ira Domsky

Address: Department of Environmental Quality
3033 North Central Avenue
Phoenix, Arizona 85012-2809

Telephone: Dave Lillie (602) 207-4436, Ira Domsky (602) 207-2365

Fax: Dave Lillie (602) 207-2251, Ira Domsky (602) 207-2366

8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

Date: December 11, 1997

Time: 9:30 a.m.

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Location: Department of Environmental Quality
Public Hearing Room
3033 North Central Avenue
Phoenix, Arizona
(Please call 602-207-4795 for special accommodations pursuant to the Americans with Disabilities Act.)

The close of written comment is Monday, January 5, 1998.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

10. Incorporations by reference and their location in the rules:

<u>Incorporation</u>	<u>Location</u>
API Manual of Petroleum Measurement Standards, Chapters 3.1A and 3.1B;	R20-2-754(B)
40 CFR 80.69(a)(7);	R20-2-755(D)
40 CFR 80.69(e)(2);	R20-2-755(E)(3)
California Procedures for Evaluating Alternative Specifications for Phase	
2 Reformulated Gasoline Using the California Predictive Model;	R20-2-758(A)(1)
The "Federal Complex Model" as contained in 40 CFR 80.45;	R20-2-758(A)(2)
13 California Code of Regulations, Section 2263;	R20-2-759(A)

11. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE
CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

**ARTICLE 7. MOTOR FUELS AND PETROLEUM
PRODUCTS**

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R20-2-701.	Definitions
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R20-2-721.	Sampling and Access to Records
R20-2-750.	Registration Pertaining to Arizona CBG or AZRBOB
R20-2-751.	Area A Arizona CBG Requirements - 1999 and later
R20-2-751.01.	Area A Arizona CBG Requirements - 1998 <u>Repealed</u>
R20-2-752.	General Requirements for Registered Suppliers
R20-2-753.	General Requirements for Pipelines and 3rd-party Terminals
R20-2-755.	Additional Requirements Pertaining to AZRBOB and Downstream Oxygenate Blending
R20-2-756.	Downstream Blending of Arizona CBG with Non-oxygenate Blendstocks
R20-2-757.	Product Transfer Documentation; Records Retention
R20-2-759.	Testing Methodologies
R20-2-760.	Compliance Surveys
R20-2-761.	Liability for Noncompliant Gasoline
Table 1.	Type 1 Gasoline Standards
Table 2.	Type 2 Gasoline Standards
Table 3.	Type 3 Gasoline Standards <u>Repealed</u>

R20-2-701. Definitions

The following definitions and definitions contained in A.R.S. §§ 41-2051, 41-2121, and Article 1 of this Chapter shall apply to this Article unless the context otherwise requires:

1. "Area A" means a county with a population of 1,200,000 or more persons that contains a carbon monoxide vehicle emissions control area.
2. "Arizona Cleaner Burning Gasoline" or "Arizona CBG" means a gasoline blend that meets the requirements of this Article for gasoline produced and shipped to Maricopa County and sold or offered for sale for use in motor vehicles in area A.
3. "AZRBOB" means a petroleum-derived liquid which is intended to be or is represented as a product that will constitute Arizona CBG upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.
4. "Batch" means a quantity of gasoline which is homogeneous with regard to those properties which are specified for Arizona CBG certified under R20-2-751 ~~or R20-2-751.01.~~
5. "Begin transport" means the point at which:
 - a. A registered supplier relinquishes custody of Arizona CBG or AZRBOB to a transporter or a 3rd-party terminal; or
 - b. A registered supplier who retains custody commences transfer of Arizona CBG or AZRBOB into a vessel, tanker, or other container for transport to area A.
6. "Conventional gasoline" means a gasoline blend which conforms with the requirements of this Chapter for sale or use in Arizona, but does not meet the requirements of Arizona CBG or AZRBOB.
7. "Co-solvent" means a chemical compound with good solvent properties that is added to a methanol-gasoline blend to prevent phase separation, reduce corrosion and

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- Improve lubrication. A co-solvent may be any 1 or a mixture of the following:
- a. Ethanol,
 - b. Propanols,
 - c. Butanols, or
 - d. Gasoline grade tertiary butyl alcohol.
8. "Diesel fuel" means a hydrocarbon fuel that is suitable for use as a fuel in a diesel engine.
 9. "Downstream blending" means blending fungible Arizona CBG from AZRBOB and an oxygenate.
 10. "EPA waivers" mean waivers granted by the Environmental Protection Agency in the document entitled "Waiver Requests under Section 211(f) of the Clean Air Act" and incorporated by reference in R20-2-702.
 11. "Final distribution facility" means the stationary gasoline transfer point from which Arizona CBG or AZRBOB is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles; except that a cargo tank truck is the final distribution facility where the cargo tank truck is used to transport AZRBOB and gasoline and carries written documentation demonstrating that the designated type and amount or range of amounts of oxygenates designated by the registered supplier will be or have been blended directly into the cargo tank truck prior to delivery of the resulting gasoline from the cargo tank truck to the facility at which the gasoline will be dispensed into motor vehicles.
 12. "Fuel" means any material which is capable of releasing energy or power by combustion or other chemical or physical reaction.
 13. "Importer" means any person who assumes title or ownership of Arizona CBG or AZRBOB that was produced by an unregistered supplier.
 14. "Lead" means the lead compound in gasoline and can be tetraethyl lead, tetramethyl lead, physical mixtures of tetraethyl lead and tetramethyl lead, and reacted mixtures of tetraethyl lead and tetramethyl lead.
 15. "Motor vehicle" means any vehicle equipped with a spark-ignited internal combustion engine except:
 - a. Vehicles that run on, or are guided by, rails; and
 - b. Vehicles that are designed primarily for travel through air or water.
 16. "MTBE" means methyl tertiary butyl ether.
 17. "NO_x" means oxides of nitrogen.
 18. "Octane", "octane number", or "octane rating" mean the anti-knock characteristic of gasoline as determined by adding the research and the motor octane numbers and dividing by 2 or (R+M)/2.
 19. "Oxygenate" means any oxygen-containing, ashless, organic compound including aliphatic alcohols and aliphatic ethers, which may be used as a fuel or as a gasoline blending component and which is approved as a blending agent under the provisions of a waiver issued by the United States Environmental Protection Agency pursuant to 42 U.S.C. 7545(f).
 20. "Oxygenate blending facility" means any facility (including a truck) at which oxygenate is added to Arizona CBG or AZRBOB, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives or other similar additives.
 21. "Oxygenate blender" means any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blend-stock or gasoline used or the gasoline produced at an oxygenate blending facility.
 22. "Oxygenated Arizona CBG" means Arizona CBG with a minimum oxygen content of 2.7% which is produced and shipped to Maricopa County and sold or offered for sale for use in motor vehicles in area A from November 1 through March 31 of each year.
 23. "Oxygen content" means:
 - a. For area A, the percentage by weight of oxygen contained in a gasoline oxygenate blend as calculated by ASTM D-4815-96; or
 - b. For areas other than area A, the percentage by weight of oxygen as calculated by multiplying the oxygen weight of any oxygenate as listed herein, by the volumetric percentage of that oxygenate in the blend. Weight of oxygen for:
 - i. Methyl Tertiary Butyl Ether: 18.2%
 - ii. Ethanol: 34.7%
 - iii. Methanol: 49.9%
 - iv. Other oxygenates as listed in Merck Index incorporated by reference in R20-2-702.
 24. "Pipeline" means a transporter that owns or operates an interstate common-carrier pipe that transports motor fuels into the state of Arizona.
 25. "PM" means the California Predictive Model, California Air Resources Board's "California Procedures for Evaluating Alternative Specification for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995.
 26. "PM alternative gasoline formulation" means a final blend of gasoline produced and shipped to Maricopa County and sold or offered for sale for use in motor vehicles in area A that is subject to a set of PM alternative specifications.
 27. "PM alternative specifications" means the specifications for the following gasoline properties, as determined in accordance with R20-2-759: maximum RVP, expressed in the nearest 100th of a pound per square inch; maximum sulfur content, expressed in the nearest part per million by weight; maximum olefin content, expressed in the nearest 10th of a percent by volume; minimum and maximum oxygen content, expressed in the nearest 10th of a percent by weight; maximum T50, expressed in the nearest degree Fahrenheit; maximum T90, expressed in the nearest degree Fahrenheit; and maximum aromatic hydrocarbon content, expressed in the nearest 10th of a percent by volume.
 28. "PM averaging compliance option" means, with reference to a specific gasoline property, the compliance option for PM alternative gasoline formulations under which final blends of gasoline are assigned designated alternative limits in accordance with R20-2-751(ED), (E) and (F) and R20-2-751.01(E).
 29. "PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.
 30. "PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.
 31. "PM flat limit compliance option" means, with reference to a specific gasoline property, the compliance option under which each gallon of gasoline must meet the specification for the property contained in the PM alternative specifications.
 32. "Produce" means:

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- a. Except as otherwise provided in subparagraphs (b) or (c) of this definition to convert liquid compounds which are not Arizona CBG or AZRBOB into Arizona CBG or AZRBOB. When a person blends volumes of blendstocks which are not Arizona CBG or AZRBOB with volumes of Arizona CBG or AZRBOB acquired from another person, and the resulting blend is Arizona CBG or AZRBOB, the person conducting such blending has produced only the portion of the blend which was not previously Arizona CBG or AZRBOB. When a person blends Arizona CBG or AZRBOB with other volumes of Arizona CBG or AZRBOB in accordance with these rules, without the addition of blendstocks which are not Arizona CBG or AZRBOB, the person does not produce Arizona CBG or AZRBOB.
 - b. Where a person supplies Arizona CBG or AZRBOB to a refiner who agrees in writing to further process the Arizona CBG or AZRBOB at the refiner's refinery and to be treated as the producer of the Arizona CBG or AZRBOB, the refiner shall be deemed for all purposes under this Article to be the producer of the Arizona CBG or AZRBOB.
 - c. Where an oxygenate blender blends oxygenates into AZRBOB which has already been supplied from a gasoline production facility or import facility, and does not alter the quality or quantity of the AZRBOB or the quality or quantity of the resulting gasoline as certified by a registered supplier in any other manner except for the addition of deposit control additives or other similar additives, the oxygenate blender is not producing any portion of the resulting gasoline, and the producer or importer of the AZRBOB is treated as the producer or importer of the full volume of the resulting gasoline.
33. "Producer" means a refiner or other person who produces Arizona CBG or AZRBOB.
 34. "Production facility" means a facility at which Arizona CBG or AZRBOB is produced. Upon request of a producer, the director may designate, as part of the producer's production facility, a physically separate bulk storage facility which is owned or leased by the producer, is operated by or at the direction of the producer, and is not used to store or distribute Arizona CBG or AZRBOB that is not supplied from the production facility.
 35. "Refiner" means any person who owns, leases, operates, controls or supervises a refinery in the United States of America, including its trust territories.
 36. "RVP" means Reid vapor pressure.
 37. "Refinery" means a facility that produces liquid fuels, including Arizona CBG or AZRBOB, by distilling petroleum.
 38. "Service station" means a place operated for the purpose of delivering motor fuel into the fuel tanks of motor vehicles.
 39. "Registered supplier" means any producer or importer who supplies Arizona CBG or AZRBOB and has registered with the director as required in R20-2-750.
 40. "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.
 41. "Third-party terminal" means a terminal that accepts custody, but not ownership, of Arizona CBG or AZRBOB from a registered supplier and relinquishes custody to a transporter for interstate transport into Arizona.
 42. "Transmix" means a mixture of petroleum distillate fuel and gasoline that does not meet the Arizona standards for either petroleum distillate fuels or gasoline.
 43. "Transporter" means any person who is not a producer or importer and who:
 - a. Effects transport of Arizona CBG or AZRBOB into the state, and
 - b. Does not assume title or ownership of that Arizona CBG or AZRBOB.
 44. "Type 1 gasoline" means a gasoline that meets the standards contained in subsection R20-2-751(A) and Table 1 of R20-2-751.
 45. "Type 2 gasoline" means a gasoline that meets the standards contained in subsection R20-2-751(A) and Table 2 of R20-2-751, or is certified using the PM in accordance with the requirements of R20-2-751(E D), (E) and (F).
 46. "Type 3 gasoline" means a gasoline that meets the standards contained in R20-2-751.01(A) and Table 3.
 - 46 47. "VOC" means volatile organic compound.
- R20-2-709. Record Retention Requirements for Service Stations and Fleet Owners**
- A. Service stations and fleet owners shall retain, on the premises to which motor fuel has been delivered, written documentation to verify the quantity and identity of each grade of motor fuel delivered. The documentation shall be retained for at least the ~~four~~ 3 most recent deliveries of each grade of motor fuel and shall, upon request, be presented to any Department official for review.
 - B. For all motor fuels other than Arizona CBG, the documentation shall be on the bill of lading, loading ticket, manifest, delivery receipt, invoice, or other documentation used in customary business practice and shall provide the following information:
 1. Vendor's name,
 2. Point of origin,
 3. Manifest or loading ticket number,
 4. Date of delivery,
 5. Quantity of each grade of product,
 6. Octane rating of the product, and
 7. Type of oxygenate and volume of oxygenate as a percent of the total blend pursuant to R20-2-712.
 8. In area A, ~~between June 1, 1998, and September 30, 1998, and beginning on May 1, 1999, the statement~~ "This gasoline is not intended for sale in area A."
 - C. Service stations and fleet owners in area A shall retain product transfer documents as provided for in R20-2-757 for each shipment of gasoline delivered during the preceding 12 months. The documentation for the ~~four~~ 3 most recent deliveries shall be maintained on the premises. Documentation for the remainder of all deliveries for the preceding 12 months shall be available within 2 working days from the time of request by the director.
 - D. All documents requested for review by a Department official, upon request, shall be photocopied and presented to the Department.
- R20-2-721. Sampling and Access to Records**
- A. Samples of motor fuel for testing shall be obtained by the Department or its authorized agents from:

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1. The same dispensing device used for sales to customers,
2. The same dispensing device used for dispensing motor fuel into fleet vehicles,
3. Any bulk storage facility,
4. Any common carrier handling motor fuel, including Arizona CBG,
5. Any transporter of Arizona CBG or AZRBOB,
6. Any final distribution facility,
7. Any 3rd-party terminal handling Arizona CBG or AZRBOB, or
8. Any oxygenate blender or registered supplier.

B. Samples shall be taken in the following manner:

1. The testing sample shall be collected in a clear or brown glass bottle or a metal container approved for such use.
2. The container shall be sealed immediately after the testing sample has been taken.
3. At a gasoline dispenser, the testing sample shall be collected after at least 1/2 gallon has been dispensed. This sample shall be considered representative of the product dispensed.

BC. The documentation and records pertaining to the production, importation, blending, transport, distribution and delivery of Arizona CBG and AZRBOB required to be kept by this Article shall be available for inspection at any reasonable time by the Department or its authorized agents.

R20-2-750. Registration Pertaining to Arizona CBG or AZRBOB

- A.** Each of the following persons shall register with the director by January 30, 1998, or in advance of the 1st date that such person will produce or import Arizona CBG or AZRBOB:
1. Any refiner who will produce Arizona CBG or AZRBOB for sale on or after June 1, 1998.
 2. Any importer who will import Arizona CBG or AZRBOB for sale on or after June 1, 1998.
 3. Any oxygenate blender who will blend oxygenate with AZRBOB to produce Arizona CBG for sale on or after June 1, 1998.
 4. Any pipeline or 3rd-party terminal who will have custody of Arizona CBG or AZRBOB on or after June 1, 1998.
- B.** Registration shall be on forms prescribed by the director and shall include the following information:
1. The name, business address, contact name, and telephone number of the person required to be registered in subsection (A) of this Section.
 2. For each separate refinery and oxygenate blending facility, the facility name, physical location, contact name, telephone number, and type of facility; and
 3. For each separate refinery and oxygenate blending facility, and for each importer's operations:
 - a. Whether records are kept on-site or off-site of the refinery or oxygenate blending facility, or in the case of importers, the registered address;
 - b. If records are kept off-site, the primary off-site storage facility name, physical location, contact name, and telephone number; and
 - c. The name, address, contact name and telephone number of the independent laboratory if used to meet the requirements of R20-2-752(F).
 4. The EPA registration number supplied under 40 CFR 80.76(d), if any.
 5. A statement of consent by the registrant that the Department or its authorized agent shall be permitted to collect samples and access documentation and records as provided in R20-2-721.

- C.** Changes to any information submitted in subsection (B) shall be sent to the director not later than 10 calendar days after the effective date of such change.
- D.** Whenever a refiner, importer, or oxygenate blender fails to register, all Arizona CBG or AZRBOB transported to area A shall be presumed to be noncomplying from the date that the registration should have occurred.
- E.** The department shall maintain a listing of all registered suppliers.

R20-2-751. Area A Arizona CBG Requirements - 1999 and later

- A.** In addition to the other requirements of this Article, on or after May 1, 1999, all Arizona CBG shall meet all of the following requirements:

Property	Limits
1. Sulfur	500 ppm by weight (max)
2. Aromatics	50% volume, (max)
3. Olefins	25% by volume (max)
4. E200	70-30% volume
5. E300	100-70% volume
6. Maximum Vapor Pressure	
a. Oct 1 - Mar 31	9.0 pounds per square inch(psi)
b. April	10.0 psi
c. May	9.0 psi
d. June 1 - Sept 30	7.0 psi
7. Oxygen and Oxygenates	
a. Minimum Content:	
i. Nov 1 - Mar 31	10% ethanol by volume 2.7% oxygen by weight (other than ethanol)
ii. April 1 - Oct 31	0% by weight
b. The maximum oxygen content shall not exceed 4.0% by weight for ethanol and 3.5% by weight for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123.	
8. Federal Complex Model VOC Emissions Performance Reduction	
May 1 through Sept 15	≥25.0% (Federal Complex Model settings: Summer, Area Class B, Phase 2)
9. Federal Complex Model NO _x Emissions Performance Reduction	
a. May 1 - Sept 15	≥ 3.0% (Federal Complex Model settings: Summer, Area Class B, Phase 2)
b. Sept 16 - April 30	≥ -2.5% (Federal Complex Model settings: Winter, Area Class B, Phase 2)
10. Dates represent compliance dates for service stations and fleet owners.	

- B.** All registered suppliers shall make an initial election, and subsequent elections when a change occurs, prior to the beginning of transport of the Arizona CBG or AZRBOB and notify the director on a form or in a format prescribed by the director:

1. Whether the registered supplier (at each point where the gasoline is certified) will supply Arizona CBG or AZRBOB that complies with the Type 1 gasoline, Type 2 gasoline, or the PM alternative gasoline formulation requirements.
2. For each property, whether the Arizona CBG or AZRBOB will comply with the average standards or per gallon standards. A registered supplier shall not elect to comply with average standards unless the supplier is in compliance with R20-2-760.

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- C. Registered suppliers shall certify Arizona CBG or AZRBOB in accordance with the provisions of R20-2-752 as meeting all requirements applicable to the election made in subsection (B) of this Section. Type 1 gasoline shall comply with the applicable requirements in either column A, or columns B and C in addition to the oxygen requirements in columns C and D of Table 1, and shall be certified using the Federal Complex Model. For each property, Type 2 gasoline shall comply with the applicable requirements of Columns A and B (averaging options) or Column C (Non-averaging option) in Table 2. The PM alternative gasoline formulation shall meet the requirements of ~~subsection (D)~~ subsections (D), (E) and (F) of this Section, and Table 2, Column A.
- D. Certification and Use of Predictive Model for Alternative PM Gasoline Formulations
1. Except as provided in ~~paragraphs (3) and (5)~~ paragraph (4) of this subsection and subsection (F) of this Section, the use of the PM shall be as provided in the Predictive Model Procedures.
 2. A registered supplier shall certify a PM alternative gasoline formulation with the director in 1 of the following ways:
 - a. Submittal to the director of a complete copy of the documentation provided to the executive officer of the California Air Resources Board in accordance with 13 California Code of Regulations, Section 2264; or
 - b. The registered supplier shall notify the director, on a form or in a format prescribed by the director, of:
 - i. The PM alternative specifications that will apply to the final blend, including for each specification whether it applies as a PM flat limit or a PM averaging limit; and
 - ii. The numerical values for % change in emissions for oxides of nitrogen and hydrocarbons as determined in accordance with the Predictive Model Procedures.
- ~~##3.~~ The certification shall be received by the director prior to ~~of~~ the beginning of transport of the PM alternative gasoline formulation.
34. Restrictions associated with elections to sell or supply final blends as PM alternative gasoline formulations.
- a. A registered supplier may not make a new election to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation if the registered supplier is subject to any outstanding requirements to provide offsets at the same production or import facility pursuant to any provision in R20-2-751(E~~G~~) ~~or~~ R20-2-751.01(E).
 - b. Once a registered supplier has elected to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation subject to a PM averaging compliance option for 1 or more properties, the registered supplier may not elect any other compliance option, including another PM alternative gasoline formulation, if there are outstanding requirements to provide offsets for such property or properties pursuant to the applicable provisions in R20-2-751(E~~G~~) ~~or~~ R20-2-751.01(E). However, this subparagraph shall not preclude a registered supplier under the circumstances described above from electing another PM alternative gasoline formulation where:
 - i. The only changes are that either PM flat limits for 1 or more properties are changed to PM averaging limits, or a single PM averaging limit for which there are no outstanding requirements to provide offsets is changed to a PM flat limit;
 - ii. There are no changes to the PM alternative specifications for the remaining properties; and
 - iii. The new PM alternative formulation meets the criteria for approval in the Predictive Model Procedures.
- c. Once a registered supplier has elected to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier may not use any previously assigned designated alternative limit for a property to provide offsets pursuant to R20-2-751(E~~G~~) ~~or~~ R20-2-751.01(E) for any final blend sold or supplied from the production or import facility subsequent to the election.
- d. Once a registered supplier has notified the director pursuant to R20-2-751(B) ~~or~~ R20-2-751.01(B) that a final blend of Arizona CBG is being sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of Arizona CBG subsequently sold or supplied from that production or import facility shall be subject to the same PM alternative specifications until the registered supplier either:
 - i. Designates a final blend at that facility as a PM alternative gasoline formulation subject to different PM alternative specifications, or
 - ii. Elects in accordance with R20-2-751(B) ~~or~~ R20-2-751.01(B) to have a final blend at that facility subject to flat limit compliance options or averaging compliance options.
- E. Prohibited activities regarding PM alternative gasoline formulations.
1. No registered supplier shall sell, offer for sale, supply, or offer for supply from its production or import facility Arizona CBG which is reported pursuant to R20-2-751(B) as a PM alternative gasoline formulation subject to PM alternative specifications if any of the following occur:
 - a. The identified PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures; or
 - b. The registered supplier was prohibited by R20-2-751(D)(34)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation; or
 - c. The gasoline fails to conform with any PM flat limit in the identified PM alternative specifications; or
 - d. With respect to any property for which the registered supplier has identified a PM averaging limit:
 - i. The gasoline exceeds the applicable PM average limit, and no designated alternative limit for the property has been established for the gasoline in accordance with R20-2-751(D)(2) ~~or~~ R20-2-751.01(D)(2); or
 - ii. A designated alternative limit for the property has been established for the gasoline in accordance with R20-2-751(D)(2) ~~or~~ R20-2-

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751-01(D)(2), and either of the following occur: the gasoline exceeds the designated alternative limit for the property, or where the designated alternative limit for the property exceeds the PM averaging limit, the exceedance is not fully offset in accordance with the applicable provisions in R20-2-751(EG) or R20-2-751-01(E).

- F. All alternative PM gasoline formulations from November 1 through March 31 shall comply with oxygen content requirements for area A. Regardless of the oxygen content of the final alternative PM gasoline formulation, it shall be certified:

1. Using the PM with an oxygen content of 2.7% by weight, or
2. In accordance with subsection D(2)(a) of this Section.

- G. Offsetting Physical Properties. Beginning April 1, 1999, each registered supplier who has elected to comply with the averaging standards for any of the physical properties contained in Tables 1 or 2, or the PM, shall complete physical transfer from the same production or import facility of certified Arizona CBG or AZRBOB in sufficient quantity to offset the extent to which the gasoline exceeded each averaging standard according to the following schedule:

1. Registered suppliers electing averaging standards contained in Table 2 or the PM shall offset each exceeded average standard within 90 days before or after the beginning of transport from a production or import facility of any final blend of Arizona CBG or AZRBOB.
2. Registered suppliers electing to comply with the averaging standard for the VOC Emission Reduction contained in Table 1, Column B, shall offset any exceedance of the standards during the period of May 1 to September 15 of each calendar year.
3. Registered suppliers electing to comply with the averaging standard for the NO_x Emission Reduction contained in Table 1, Column B, shall offset any exceedance of the summer standard during the period of May 1 to September 15 of each calendar year.
4. Registered suppliers electing to comply with the averaging standard for the NO_x Emission Reduction contained in Table 1, Column B, shall offset any exceedance of the winter standard during the period of September 16 to April 30.

- H. Consequences of failure to comply with averages.

1. In addition to penalties, if any, under R20-2-762, any registered supplier who fails to comply with the requirements of subsection (E G) shall meet the applicable per gallon standards contained in Table 1, Table 2, or for any alternative PM gasoline formulation, for a probationary period as follows:
 - a. For persons electing to comply with the standards contained in Table 1, the probationary period shall begin on the 1st day of the next similar averaging season and end on the last day of that averaging season if the conditions of paragraph (2) of this subsection are met.
 - b. For persons electing to comply with the standards contained in Table 2, the probationary period will begin no later than 90 days after the registered supplier determines, or they receive a notice from the director, that the registered supplier has failed to comply with the requirements of subsection (EG). Before the probationary period begins, the registered supplier shall notify the director in writing of

the beginning date of the probationary period. The probationary period will last for 90 calendar days.

2. A registered supplier may not begin producing or importing Arizona CBG or AZRBOB under an averaging compliance election until the registered supplier demonstrates to the director's satisfaction that measures necessary to prevent future noncompliance have been implemented and that facility compliance with averaging will be achieved.
3. If a registered supplier fails to comply with the requirements of subsection (EG) of this Section within 1 year of the end of a probationary period provided under paragraph (1) of this subsection, the registered supplier shall comply with applicable per gallon standards for a probationary period of at least 2 years, and until the conditions in paragraph (2) of this subsection are satisfied.
 - a. For persons electing to comply with the standards contained in Table 1, the probationary period shall begin on the 1st day of the next similar averaging season.
 - b. For persons electing to comply with the standards contained in Table 2, the probationary period will begin no later than 90 days after the registered supplier determines, or receives notice from the director, that the registered supplier has failed to comply with the requirements of subsection (EG). Before the probationary period begins, the registered supplier shall notify the director in writing of the beginning date of the probationary period.
4. If a registered supplier fails to comply with the requirements of subsection (EG) of this Section within 1 year of the end of a probationary period provided under paragraph (3) of this subsection, the registered supplier shall comply with applicable per gallon standards.
- I. Effect of VOC survey failure. On each occasion that area A fails a Federal Complex Model VOC emissions reduction survey on or after May 1, 1999, conducted pursuant to R20-2-760, the Federal Complex Model VOC emissions performance reduction in R20-2-751(A)(8) and the minimum per gallon VOC emission reduction percentage in Table 1 shall be increased by an absolute 1.0%, not to exceed the VOC percent emissions reduction per gallon standard in Table 1.
- J. Effect of NO_x survey failure. On each occasion that area A fails a Federal Complex Model NO_x emissions reduction survey on or after November 1, 1999, conducted pursuant to R20-2-760, the Federal Complex Model NO_x emissions performance reduction in R20-2-751(A)(9)(b) and the minimum per gallon NO_x emission reduction percentage applicable to the period of September 16 through April 30 in Table 1 shall be increased by an absolute 1.0%, not to exceed the NO_x percent emissions reduction per gallon standard applicable to the same time period in Table 1.
- K. Subsequent survey compliance. In the event that the minimum VOC or NO_x emissions reduction has been made more stringent in accordance with subsections (GI) or (HI) of this Section, and area A passes all emissions reduction surveys for the pollutant for 2 consecutive years, the applicable VOC or NO_x emissions reduction adjusted standard shall be reduced by an absolute 1%, but not below the applicable minimum Federal Complex Model emission reduction performance standard in Table 1, beginning in the year following the 2nd year of the compliant survey series.
- L. In the event that the required VOC or NO_x emissions reduction has been made less stringent pursuant to subsection (IK)

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of this Section and area A fails a subsequent VOC or NO_x emissions reduction survey:

1. The applicable minimum emission reduction standard in Table 1 and paragraph (A), for the pollutant shall be increased by an absolute 1.0%, not to exceed the applicable minimum Federal Complex Model emission reduction performance per-gallon standard in Table 1, beginning in the year following this subsequent failure; and
 2. The minimum emission reduction for the pollutant thereafter shall not be made less stringent regardless of the results of subsequent surveys for that pollutant.
- M. Effective date for more stringent standards. In the case of any standard that is changed to be more stringent by operation of subsections (G), (H), or (J) (I, (J) or (K) of this Section, the effective date for such change shall begin with the next averaging season for which that standard is applicable.

R20-2-751.01. Area A Arizona CBG Requirements—1998

A. In addition to the other requirements of this Article, from June 1, 1998 through September 30, 1998, all Arizona CBG shall meet all of the following requirements:

Property	Limits
1. Sulfur	500 ppm by weight (max)
2. Aromatics	50% by volume, (max)
3. Olefins	25% by volume (max)
4. E200	70-30% volume
5. E300	100-70% volume
6. Maximum Vapor Pressure	
June 1—Sept 30	7.0 psi
7. Oxygen and Oxygenates	
a. Minimum Content:	
June 1—Sept 30	0% by weight
b. Maximum Content:	
June 1—Sept 30	4.0% by weight for ethanol and 3.5% by weight for all other oxygenates
8. Federal Complex Model VOC Emission Performance Reduction	
June 1—Sept 30	≥32.6% (Federal Complex Model settings: Summer, Area Class B, Phase 1)
9. Federal Complex Model NO _x Emission Performance Reduction	
June 1—Sept 30	≥2.5% (Federal Complex Model settings: Summer, Area Class B, Phase 1)
10. Dates represent compliance dates for service stations and fleet owners.	

B. All registered suppliers shall make an initial election, and subsequent elections when a change occurs, prior to the beginning of transport of the Arizona CBG or AZRBOB and notify the director on a form or in a format prescribed by the director:

1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply gasoline that complies with the Type 2 gasoline, Type 3 gasoline, or the PM alternative gasoline formulation requirements.
2. For each property, whether average standards or per gallon standards shall be applied. A registered supplier shall not elect to comply with average standards unless the supplier is in compliance with R20-2-760.

C. Registered suppliers shall certify Arizona CBG or AZRBOB in accordance with the provisions of R20-2-752 as meeting all requirements applicable to the election made in subsection (B) of this Section. Type 2 gasoline shall comply with the

applicable requirements of Columns A and B (averaging options) or Column C (Non-averaging options) in Table 2 of R20-2-751. Type 3 gasoline shall comply with the applicable requirements in either column A, or columns B and C in addition to the oxygen requirements in columns C and D of Table 3, and shall be certified using the Federal Complex Model. The PM alternative gasoline formulation shall meet the requirements of subsection (D) of this Section, and Table 2, Column A of R20-2-751.

D. Certification and Use of PM for Alternative PM Gasoline Formulations-

1. Except as provided in subsection (3), the use of the PM shall be as provided in the Predictive Model Procedures.
2. A registered supplier shall certify a PM alternative gasoline formulation with the director in one of the following ways:
 - a. Submittal to the director of a complete copy of the documentation provided to the executive officer of the California Air Resources Board in accordance with 13 California Code of Regulations, Section 2264; or
 - b. The registered supplier shall notify the director, on a form or in a format prescribed by the director, of:
 - i. The PM alternative specifications that will apply to the final blend, including for each specification whether it applies as a PM flat limit or a PM averaging limit; and
 - ii. The numerical values for percent change in emissions for oxides of nitrogen and hydrocarbons as determined in accordance with the Predictive Model Procedures.
 The certification shall be received by the director prior to the beginning of transport of the PM alternative gasoline formulation.
3. Restrictions associated with elections to sell or supply final blends as PM alternative gasoline formulations:
 - a. A registered supplier may not make a new election to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation if the registered supplier is subject to any outstanding requirements to provide offsets at the same production or import facility pursuant to any provision in R20-2-751(E) or R20-2-751.01(E).
 - b. Once a registered supplier has elected to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation subject to a PM averaging compliance option for one or more properties, the registered supplier may not elect any other compliance option, including another PM alternative gasoline formulation, if there are outstanding requirements to provide offsets for such property or properties pursuant to the applicable provisions in R20-2-751(E) or R20-2-751.01(E). However, this subparagraph shall not preclude a registered supplier under the circumstances described above from electing another PM alternative gasoline formulation where:
 - i. The only changes are that either PM flat limits for one or more properties are changed to PM averaging limits, or a single PM averaging limit for which there are no outstanding requirements to provide offsets is changed to a PM flat limit;

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- ii. There are no changes to the PM alternative specifications for the remaining properties; and
 - iii. The new PM alternative formulation meets the criteria for approval in the Predictive Model Procedures.
 - e. Once a registered supplier has elected to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier may not use any previously assigned designated alternative limit for a property to provide offsets pursuant to R20-2-751(E) or R20-2-751.01(E) for any final blend sold or supplied from the production or import facility subsequent to the election.
 - d. Once a registered supplier has notified the director pursuant to R20-2-751(B) or R20-2-751.01(B) that a final blend of Arizona CBG is being sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of Arizona CBG subsequently sold or supplied from that production or import facility shall be subject to the same PM alternative specifications until the registered supplier either:
 - i. Designates a final blend at that facility as a PM alternative gasoline formulation subject to different PM alternative specifications; or
 - ii. Elects in accordance with R20-2-751(B) or R20-2-751.01(B) to have a final blend at that facility subject to flat limit compliance options or averaging compliance options.
 - 4. Prohibited activities regarding PM alternative gasoline formulations:
 - a. No registered supplier shall sell, offer for sale, supply, or offer for supply from its production or import facility Arizona CBG which is reported pursuant to R20-2-751.01(B) as a PM alternative gasoline formulation subject to PM alternative specifications if any of the following occur:
 - i. The identified PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures; or
 - ii. The registered supplier was prohibited by R20-2-751.01(D)(3)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation; or
 - iii. The gasoline fails to conform with any PM flat limit in the identified PM alternative specifications; or
 - iv. With respect to any property for which the registered supplier has identified a PM averaging limit:
 - (1) The gasoline exceeds the applicable PM average limit, and no designated alternative limit for the property has been established for the gasoline in accordance with R20-2-751(D)(2) or R20-2-751.01(D)(2); or
 - (2) A designated alternative limit for the property has been established for the gasoline in accordance with R20-2-751(D)(2) or R20-2-751.01(D)(2), and either of the following occur:
 - (a) The gasoline exceeds the designated alternative limit for the property; or
 - (b) Where the designated alternative limit for the property exceeds the PM averaging limit, the exceedance is not fully offset in accordance with the applicable provisions in R20-2-751(E) or R20-2-751.01(E).
 - E. Offsetting Physical Properties. Between May 1, 1998 through September 30, 1998, each registered supplier who has elected to comply with the averaging standards for any of the physical properties contained in Tables 2 or 3, or the PM, shall complete physical transfer from the same production or import facility of certified Arizona CBG or AZRBOB in sufficient quantity to offset the extent to which the gasoline exceeded each averaging standard according to the following schedule:
 - 1. Registered suppliers electing averaging standards contained in R20-2-751, Table 2 or the PM shall offset each exceeded average standard within 90 days before or after the beginning or transport from a production or import facility of any final blend of Arizona CBG or AZRBOB.
 - 2. Registered suppliers electing to comply with the averaging standard for the VOC Emission Reduction contained in Table 3, Column B, shall offset any exceedance of the standards during the period of June 1, 1998 to September 30, 1998.
 - 3. Registered suppliers electing to comply with the averaging standard for the NO_x Emission Reduction contained in Table 3, Column B, shall offset any exceedance of the standard during the period of June 1, 1998 to September 30, 1998.
 - F. Consequences of failure to comply with averages.
 - 1. In addition to penalties, if any, under R20-2-762, any registered supplier who fails to comply with the requirements of subsection (E) shall meet the applicable per gallon standards contained in R20-2-751, Table 2, Table 3, or for any alternative PM gasoline formulation, for a probationary period as follows:
 - a. For persons electing to comply with the standards contained in Table 3, the probationary period shall begin on the first day of the next similar averaging season and end on the last day of that averaging season if the conditions of paragraph (2) of this subsection are met.
 - b. For persons electing to comply with the standards contained in R20-2-751, Table 2, the probationary period will begin no later than 90 days after the registered supplier determines, or they receive a notice from the director, that the registered supplier has failed to comply with the requirements of subsection (E). Before the probationary period begins, the registered supplier shall notify the director in writing of the beginning date of the probationary period. The probationary period will last for 90 calendar days.
 - 2. A registered supplier may not begin producing or importing Arizona CBG or AZRBOB under an averaging compliance election until the registered supplier demonstrates to the director's satisfaction that measures necessary to prevent future noncompliance have been implemented and that facility compliance with averaging will be achieved.
- R20-2-752. General Requirements for Registered Suppliers**
- A. Each batch of Arizona CBG or AZRBOB transported for sale or use in area A from June 1 through September 30, 1998, or

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from and after May 1, 1999, shall be certified as meeting the standards in this Article.

- B. Certification shall be made by the producer or the importer. Certification shall be on a form or in a format and in a medium prescribed by the director and shall include a statement signed by the responsible party that the Arizona CBG or AZRBOB meets applicable standards. The certification shall include information on batch properties of Arizona CBG or AZRBOB. For each batch transported, all required data shall be received by the director on or before the 15th day of each month for the Arizona CBG or AZRBOB transported during the previous month.
- C. Record Keeping and Records Retention.
1. Each registered supplier required to sample and analyze a final blend or shipment of Arizona CBG or AZRBOB pursuant to this subsection shall maintain, for 5 years from the date of each sampling, records showing the sample date, identity of blend or product sampled, container or other vessel sampled, the final blend or shipment volume, and the sulfur, aromatic hydrocarbon, olefin, oxygen, RVP, and as applicable, T50, T90, E200 and E300 as determined in accordance with R20-2-759 of this Article. All Arizona CBG or AZRBOB produced or imported by the registered supplier and not tested as required by this Section shall be deemed to have a RVP, sulfur, aromatic hydrocarbon, olefin, oxygen, T50 and T90 exceeding the standards specified in R20-2-751 and R20-2-751.01, or exceeding the comparable PM averaging limits if applicable, unless the importer demonstrates that the Arizona CBG or AZRBOB meets those standards and limits.
 2. A registered supplier shall provide to the director any records required to be maintained by the registered supplier pursuant to this subsection within 20 days of a written request from the director if the request is received before expiration of the period during which the records are required to be maintained. Whenever a registered supplier fails to provide records regarding a blend or shipment of Arizona CBG or AZRBOB in accordance with the requirements of this Section, the final blend or shipment of Arizona CBG or AZRBOB shall be presumed to have been sold by the registered supplier in violation of the standards in R20-2-751 and R20-2-751.01, or exceeding the comparable PM averaging limits if applicable, unless the importer demonstrates that the Arizona CBG or AZRBOB meets those standards and limits.
- D. Notification requirement. A registered supplier shall notify the director by facsimile prior to the beginning of transport of Arizona CBG or AZRBOB into area A by means other than a pipeline.
- E. Quality Assurance/Quality Control (QA/QC) Program. Each registered supplier shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the registered supplier's laboratory testing. The QA/QC program shall be submitted to the director for approval at least 3 months prior to transport of Arizona CBG or AZRBOB. In lieu of the QA/QC program, registered suppliers may opt to comply with the independent testing requirements of subsection (F) of this Section.
- F. Independent testing.
1. Any registered supplier of Arizona CBG or AZRBOB that does not comply with the requirements of subsection (E) of this Section shall carry out a program of independent sample collection and analyses for the Arizona

CBG or AZRBOB it produces or imports, which meets the requirements of 1 of the following 2 options:

- a. Option 1. The registered supplier shall, for each batch of Arizona CBG or AZRBOB that is produced or imported, have an independent laboratory collect and analyze a representative sample from the batch using the methodology specified in R20-2-759 for compliance with each property for which the Arizona CBG or AZRBOB has been certified.
- b. Option 2. The registered supplier shall have an independent testing program carried out for all Arizona CBG or AZRBOB produced or imported, which shall consist of the following:
 - i. An independent laboratory shall collect a representative sample from each batch;
 - ii. The director shall identify up to 10% of the total number of samples collected under subparagraph (b)(i) of this subsection; and
 - iii. The designated independent laboratory shall, for each sample identified by the director, analyze the sample using methodology specified in R20-2-759 for each property for which that batch was certified.

The director may request a portion of the batch sample collected under this subsection for analysis by the director. The sample shall be submitted to the director within 24 hours of written request.

2. Designation of Independent Laboratory
 - a. Any registered supplier that does not comply with subsection (E) shall designate 1 independent laboratory for each production or import facility at which Arizona CBG or AZRBOB is produced or imported. This independent laboratory will shall collect samples and perform analyses in compliance with the requirements of this subsection.
 - b. Any registered supplier shall identify this designated independent laboratory to the director under the registration requirements of R20-2-750.
 - c. In order to be considered independent:
 - i. The laboratory shall not be operated by any registered supplier, and shall not be operated by any subsidiary or employee of any registered supplier;
 - ii. The laboratory shall be free from any interest in any registered supplier; and
 - iii. The registered supplier shall be free from any interest in the laboratory.
3. Any registered supplier shall cause its designated independent laboratory:

Notwithstanding the restrictions in items (i) through (iii) of this subparagraph, a laboratory shall be considered independent if it is owned or operated by a gasoline pipeline company, regardless of ownership or operation of the gasoline pipeline company by producers or importers, provided that such pipeline company is owned and operated by 4 or more producers or importers.

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- a. At the time the designated independent laboratory it collects a representative sample from a batch of Arizona CBG or AZRBOB, to record the following information:
- i. The producer's or importer's assigned batch number for the batch being sampled;
 - ii. The volume of the batch;
 - iii. The identification number of the gasoline storage tank or tanks in which the batch was stored at the time the sample was collected;
 - iv. The date and time the batch became finished Arizona CBG or AZRBOB, and the date and time the sample was collected;
 - v. The grade of the batch (for example, unleaded premium, unleaded mid-grade, or unleaded); and
 - vi. In the case of Arizona CBG or AZRBOB produced through computer-controlled in-line blending, the date and time the blending process began and the date and time the blending process ended, unless exempt under subsection (G) of this Section;
- b. To retain each sample collected pursuant to the requirements of this subsection for a period of at least 45 days, except that this period shall be extended to a period of up to 180 days upon request by the director;
- c. To submit to the director periodic reports, as follows:
- i. ~~From June 1, 1998, through September 30, 1998, reports shall be submitted on the 15th of every month for samples collected and analyzed during the previous month.~~
 - ii. From May 1, 1999, and after, reports shall be submitted on the 15th of the month following the previous 3-month reporting period.
- Each report shall include, for each sample of Arizona CBG or AZRBOB that was analyzed pursuant to the requirements of this subsection:
- ~~(1)~~i. The results of the independent laboratory's analyses for each property; and
 - ~~(2)~~ii. The information specified in this subsection for such sample; and
- d. To supply to the director, upon the director's request, a portion of any such sample.
- G. Exemptions to QA/QC and Independent Laboratory Testing Requirements
1. Any registered supplier that produces or imports Arizona CBG using computer-controlled in-line blending equipment and is operating under an exemption from EPA in accordance with 40 CFR 80.65(f)(4) is exempt from the requirements of R20-2-752(E) and (F).
 2. Reports of the results of the independent audit program of the refiner's computer-controlled in-line blending operation that are submitted to EPA under 40 CFR 80.65(f)(4) shall additionally be submitted to the director by March 1 of each year.
- applicable standards in either R20-2-751(A) or R20-2-751.01(A), with no reproducibility or rounding.
- B. Any pipeline or 3rd-party terminal that transports Arizona CBG or AZRBOB shall collect a sample of each incoming batch. The pipeline or 3rd-party terminal shall retain each sample collected pursuant to the requirements of this subsection for a period of at least 30 days, except that this period shall be extended for individual samples to a period of up to 180 days upon request by the director.
- C. Any pipeline shall conduct quality control testing of Arizona CBG or AZRBOB at a frequency of no less than 1 sample from 1 batch completing shipment per supplier per day at each input location.
- D. The pipeline shall provide the director with a report summarizing the laboratory testing results required in subsection (C) within 10 days of the end of each calendar month. The report shall contain the quantity of Arizona CBG or AZRBOB and date tendered, whether it entered a pipeline, present location of fuel sample, and laboratory analysis results.
- E. For any batch that does not meet the applicable standards in either R20-2-751(A) or ~~R20-2-751.01(A)~~, but is within reproducibility, the pipeline shall notify the director by facsimile within 48 hours with the quantity and date tendered, proposed date of shipment, whether it entered a pipeline, present location of fuel, and laboratory analysis results.
- F. For any batch that does not meet the applicable standards in either R20-2-751(A) or ~~R20-2-751.01(A)~~, including reproducibility, the pipeline or 3rd-party terminal shall notify the director by facsimile within 24 hours with the quantity and date tendered, proposed date of shipment, whether it entered a pipeline, present location of fuel, and laboratory analysis results. If the product is still within the pipeline or 3rd-party terminal's control, measures shall be taken to stop the release of product from a distribution point until such time as it can be certified as meeting the standards in R20-2-751(A) and ~~R20-2-751.01(A)~~.
- G. The director will not consider the pipeline to be liable under R20-2-761 if the pipeline has complied with all of the procedures in this Section.
- H. The pipeline or 3rd-party terminal shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the pipeline or 3rd-party terminal's laboratory testing. In addition, 3rd-party terminals shall include a description of the laboratory testing protocol used to verify that the gasoline being supplied for transport to area A meets the applicable standards in either R20-2-751(A) or ~~R20-2-751.01(A)~~. ~~The QA/QC program shall be submitted to the director for approval by January 30, 1998 for any pipeline or third party terminal that will be transporting Arizona CBG or AZRBOB any time prior to May 30, 1998. For any pipeline or third party terminal that registers after January 30, 1998, the~~ The QA/QC program shall be submitted to the director for approval at least 3 months in advance of the 1st date such registrant transports Arizona CBG or AZRBOB.
- I. Units within a 3rd-party terminal used as production, import or oxygenate blending facilities shall be exempted from the provisions of this Section, but shall comply with applicable requirements for registered suppliers or oxygenate blenders.

R20-2-753. General Requirements for Pipelines and 3rd-party Terminals

- A. ~~A~~ The pipeline or 3rd-party terminal shall not accept Arizona CBG or AZRBOB for transport unless:
1. The supplier is registered with the department; and
 2. The supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the

R20-2-754. Downstream Blending Exceptions for Transmix

- A. Pipelines may blend transmix into Arizona CBG or AZRBOB at a rate not to exceed 1/4 of 1%. Each pipeline shall document the transmix blending (recording each batch and volume of transmix blended) and maintain the records at the terminal for 2 years.

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- B. One of 2 methods shall be used to measure the transmix as it is blended into the product stream:

1. Meters, calibrated at least twice each year; or
2. Tank gauge as per API Manual of Petroleum Measurement Standards, Chapters 3.1A (1st edition, December 1994) and 3.1B (1st edition, April 1992), which is incorporated by reference and is on file with the Secretary of State.

R20-2-755. Additional Requirements Pertaining to AZRBOB and Downstream Oxygenate Blending

A. Application of Arizona CBG standards ~~or to~~ AZRBOB.

1. Determining whether AZRBOB complies with the standards for Arizona CBG.
 - a. Where a registered supplier has designated a final blend as AZRBOB and has complied with all applicable provisions of this Section, the properties of the final blend for purposes of compliance with Tables 1, ~~or 2, or 3 in R20-2-751 and R20-2-751.01~~ shall be determined by adding the specified type and amount of oxygenate to a representative sample of the AZRBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in R20-2-759. Where the registered supplier designated a range of amounts of oxygenate or more than 1 oxygenate type to be added to the AZRBOB, the minimum designated amount of the oxygenate having the smallest designated volume shall be added to the AZRBOB when determining the properties and characteristics of the final blend. If the registered supplier has not complied with any applicable provisions of this Section, the properties of the final blend for purposes of the producer's or importer's compliance with R20-2-751 ~~and R20-2-751.01~~, excluding requirements for RVP, shall be determined without adding oxygenate to the gasoline.
 - b. In determining whether AZRBOB complies with the standards for Arizona CBG, the oxygenate added must be representative of the oxygenate the registered supplier reasonably expects will be subsequently added to the final blend.
2. Calculating the volume of a final blend of AZRBOB. Where a registered supplier has designated a final blend as AZRBOB and has complied with all applicable provisions of this Section, the volume of a ~~the~~ final blend shall be calculated for compliance purposes as contained in R20-2-751 ~~and R20-2-751.01~~ by adding the minimum designated amount of the oxygenate having the smallest volume designated by the registered supplier. If the registered supplier has not complied with any applicable provisions of this Section, the volume of the final blend for purposes of the producer's or importers compliance with R20-2-751 ~~and R20-2-751.01~~ shall be calculated without adding the amount of oxygenate to the AZRBOB.

B. Restrictions on transferring AZRBOB.

1. No person may transfer ownership or custody of AZRBOB to any other person unless the transferee has notified the transferor in writing that either:
 - a. The transferee is a registered oxygenate blender and will add oxygenate of the types and amount (or within the range of amounts) designated in accordance with R20-2-757 before the AZRBOB is transferred from a final distribution facility, or

- b. The transferee will take all reasonably prudent steps necessary to assure that the AZRBOB is transferred to a registered oxygen blender who adds the type and amount (or within the range of amounts) of oxygenate designated in accordance with R20-2-757 to the AZRBOB before the AZRBOB is transferred from a final distribution facility.

2. No person may sell or supply AZRBOB from a final distribution facility where the type and amount or range of amounts of oxygenate designated in accordance with R20-2-757 has not been added to the AZRBOB.
- C. Restrictions on blending AZRBOB with other products. No person may combine any AZRBOB that has been supplied from the facility at which it was produced or imported with any other AZRBOB, gasoline, blendstock or oxygenate, except:
1. Oxygenate of the type and amount (or within the range of amounts) specified by the registered supplier at the time the AZRBOB was supplied from the production or import facility, or
 2. Other AZRBOB for which the same oxygenate type and amount (or range of amounts) was specified by the registered supplier at the time the AZRBOB was supplied from the production or import facility.
- D. Quality audit requirements for a registered supplier supplying AZRBOB from its production or import facility. Each registered supplier supplying AZRBOB from its production or import facility shall conduct a quality assurance sampling and testing program substantially satisfying the requirements in 40 CFR 80.69(a)(7) as it existed on July 1, 1996, but modified as follows:
1. Change "RBOB" to "AZRBOB"; and
 2. Change in the 1st paragraph "...using the methodology specified in § 80.46..." to "...using the methodology specified in R20-2-759..."; and
 3. Change in paragraph (a)(7)(ii) "(within the correlation ranges specified in § 80.65(e)(2)(i))" to "(within the ranges of the applicable test methods)". 40 CFR 80.69(a)(7) as it existed on July 1, 1996, is incorporated by reference.
- E. Requirements for oxygenate blenders.
1. Requirement to add oxygenate to AZRBOB. Whenever an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender has represented that oxygenate will be added to the AZRBOB, the oxygenate blender ~~must~~ shall add to the AZRBOB oxygenate of the types and amount (or within the range of amounts) identified in the documentation accompanying the AZRBOB.
 2. Additional requirements for terminal blending. Any oxygenate blender who makes a final blend of Arizona CBG by blending any oxygenate with any AZRBOB in any gasoline storage tank, other than a truck used for delivering gasoline to retail outlets or bulk purchaser-consumer facilities, shall, for each such final blend, determine the oxygen content and volume of the final blend prior to its leaving the oxygen blending facility, by collecting and analyzing a representative sample of gasoline taken from the final blend, using methodology set forth in R20-2-759.
 3. Additional requirements for oxygenate blenders who blend oxygenate in trucks.
Any oxygen blender who obtains any AZRBOB in any gasoline delivery truck shall conduct a quality assurance

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- sampling and testing program substantially satisfying the requirements in 40 CFR 80.69(e)(2) as it existed on July 1, 1996, but modified as follows:
- a. Change "RBOB" to "AZRBOB"; and
 - b. Change in paragraph (e)(2)(iv) "... using the testing methodology specified at § 80.46 ..." to "... using the testing methodology specified in R20-2-759..."; and
 - c. Change in paragraph (e)(2)(v) "(within the ranges specified in § 80.70(b)(2)(i))" to "(within the ranges of the applicable test methods)". 40 CFR 80.69(e)(2) as it existed on July 1, 1996, is incorporated by reference.
4. Additional requirements for oxygenate blenders who in-line blend oxygenate to pipelines using computer controlled blending.
- a. Any oxygenate blender who produces Arizona CBG by blending oxygenate with AZRBOB into a pipeline using computer-controlled in-line blending shall, for each batch of Arizona CBG produced:
 - i. Obtain a flow proportional composite sample of the blended Arizona CBG subsequent to the addition of oxygenate and prior to combining the resulting Arizona CBG with any other gasoline;
 - ii. Determine the oxygen content of the Arizona CBG by analyzing the composite sample within 24 hours using the methodology of R20-2-759;
 - iii. Determine the volume of the Arizona CBG.
 - b. In the event the testing results for the Arizona CBG indicate that it does not contain the specified type and amount of oxygenate within the ranges of the applicable test methods the oxygenate blender shall:
 - i. Notify the pipeline to downgrade the Arizona CBG to conventional gasoline or transmix tankage upon arrival in Arizona;
 - ii. Notify the director and begin an investigation to determine the cause of the noncompliance;
 - iii. Collect spot samples each 2 hours during each in-line blend of AZRBOB and oxygenate, and analyze these spot samples within 12 hours, until the cause of the non-compliance has been determined and corrected to the satisfaction of the director.
5. Record Keeping and Records Retention.
- a. Each oxygenate blender shall maintain, for 5 years from the date of each sampling, records showing the sample date, identity of blend or product sampled, container or other vessel sampled, the final blend or shipment volume, and the oxygen content as determined in accordance with R20-2-759 of this Article. All Arizona CBG blended by the oxygenate blender and not tested as required by this Section shall be deemed to have an oxygen content exceeding the standards specified in R20-2-751 and R20-2-751.01, or exceeding the comparable PM averaging limits if applicable, unless the oxygenate blender demonstrates that the Arizona CBG meets those standards and limits.
 - b. An oxygenate blender shall provide to the director any records required to be maintained by the oxygenate blender pursuant to this subsection within 20 days of a written request from the director if the request is received before expiration of the period during which the records are required to be maintained. Whenever an oxygenate blender fails to provide records regarding a blend or shipment of Arizona CBG in accordance with the requirements of this Section, the final blend or shipment of Arizona CBG shall be presumed to have been sold by the oxygenate blender in violation of the standards in R20-2-751 and R20-2-751.01, or exceeding the comparable PM averaging limits if applicable, unless the oxygenate blender demonstrates that the Arizona CBG meets those standards and limits.
6. Notification requirement. An oxygenate blender shall notify by facsimile the director by facsimile prior to the beginning of transport of Arizona CBG or AZRBOB into area A by means other than a pipeline.
7. Quality Assurance/Quality Control (QA/QC) Program. Each oxygenate blender shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the oxygenate blender's laboratory testing. The QA/QC program shall be submitted to the director for approval at least 3 months prior to transport of Arizona CBG. In lieu of the QA/QC program, oxygenate blenders may opt to comply with the independent testing requirements of R20-2-752(F).
- R20-2-756. Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks**
- A. No person may combine Arizona CBG which has been supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person can affirmatively demonstrate that:
1. The blendstock that is added to the Arizona CBG meets all of the Arizona CBG standards without regard to the properties of the gasoline to which the blendstock is added, and
 2. The person meets with regard to the blendstock all requirements in this article Article applicable to producers of Arizona CBG.
- B. Notwithstanding subsection (A) of this Section, a person may add nonoxygenate blendstock to a previously certified batch or mixture of certified batches of Arizona CBG that does not comply with 1 or more of the applicable per gallon standards contained in R20-2-751(A) and R20-2-751.01(A) where the person obtains the prior approval of the director based on a demonstration that adding the blendstock is a reasonable means of bringing the gasoline into compliance with the applicable per gallon standards for Arizona CBG. The oxygenate blender or registered supplier shall certify the rebled Arizona CBG.
- R20-2-757. Product Transfer Documentation; Records Retention**
- A. On each occasion when any person transfers custody or title to any Arizona CBG or AZRBOB, other than when gasoline is sold or dispensed at a service station or fleet vehicle fueling facility, the transferor shall provide to the transferee documents which include the following information:
1. The name and address of the transferor,
 2. The name and address of the transferee,
 3. The volume of Arizona CBG or AZRBOB which is being transferred,
 4. The location of the Arizona CBG or AZRBOB at the time of the transfer,
 5. The date of the transfer,
 6. Product transfer document number,

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7. The proper identification of the gasoline as Arizona CBG or AZRBOB,
8. The minimum octane rating,
9. The applicable Federal Complex Model VOC and NO_x reduction percentage standards contained in R20-2-751(A) ~~or R20-2-751.01(A)~~ with which the Arizona CBG or AZRBOB conforms.
10. For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through March 31, the type and quantity of oxygenate contained in the Arizona CBG.
11. In the case of AZRBOB for which oxygenate blending is intended:
 - a. Identification of the product as AZRBOB, and a statement that the AZRBOB does not comply with the standards for Arizona CBG without the addition of oxygenate,
 - b. The designation of the AZRBOB as suitable for blending with:
 - i. Any oxygenate,
 - ii. Ether only, or
 - iii. Other specified oxygenate type or types and amount or amounts.
 - c. The oxygenate type or types and amount or amounts which the AZRBOB requires in order to meet the properties claimed by the registered supplier of the AZRBOB, and the applicable volume percent oxygenate and weight percent oxygen content specifications;
 - d. Instructions that the AZRBOB may not be combined with any other AZRBOB except when having the same requirements for oxygenate type or types and amount or amounts.
- B. A registered supplier, 3rd-party terminal, or pipeline may comply with this requirement by the use of standardized product codes on pipeline tickets. The codes specified for the Arizona CBG or AZRBOB shall be identified in a manual that is distributed to transferees of the Arizona CBG or AZRBOB and sets forth all of the required information for the Arizona CBG or AZRBOB.
- C. Any person identified in subsection (A) of this Section with the exception of registered suppliers, oxygenate blenders, 3rd-party terminals and pipelines, shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the previous 24 month period. The documentation for the transfers or deliveries made during the preceding 30 day period shall be maintained at the business address listed on the product transfer document. Documentation for the remainder of all transfers or deliveries for the preceding 24 months shall be available within 2 working days from the time of request by the director. Registered suppliers, oxygenate blenders, 3rd-party terminals, and pipelines shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the previous 60 month period. The documentation for the transfers or deliveries made during the preceding 30 day period shall be maintained at the business address listed on the product transfer document. Documentation for the remainder of all transfers or deliveries for the preceding 60 months shall be available within 2 working days from the time of request by the director.
- D. All documents requested for review by a Department official, upon request, shall be photocopied and presented to the Department.

R20-2-758. Adoption of Fuel Certification Models

- A. The following documents are incorporated by reference and on file with the Office of the Secretary of State. These documents do not include any later amendments or editions. Copies of each are available from the department.
 1. The California Predictive Model (PM), California Air Resources Board's "California Procedures for Evaluating Alternative Specification for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995 (hereafter Predictive Model Procedures).
 2. The Federal Complex Model as contained in 40 CFR 80.45, July 1, 1996.

R20-2-759. Testing Methodologies

- A. Except as provided in subsections (C) and (D), Arizona CBG or AZRBOB certified as meeting standards under ~~R20-2-751~~, Table 1 ~~or R20-2-751.01~~, Table 3 shall be tested with testing methodologies required by 13 California Code of Regulations, Section 2263, incorporated by reference as of January 1, 1997.
- B. Except as provided in subsection (C), Arizona CBG or AZRBOB certified as meeting standards under Table 2 shall be tested with methods required by 13 California Code of Regulations, Section 2263, incorporated by reference as of January 1, 1997.
- C. Registered suppliers, oxygenate blenders and 3rd-party terminals certifying gasoline prior to transport to Maricopa County shall measure oxygenate using ASTM D-4815-96 procedures and RVP using ASTM D4814 standards. For gasoline located within Maricopa County, oxygenate shall be measured using ASTM D-4815-96 and RVP shall be measured using ASTM D5191-96.
- D. Except as required in subsection (C), a registered supplier of Arizona CBG or AZRBOB may certify Type 1 ~~or Type 3~~ gasoline produced or imported at any specific facility using the federal test methods contained in 40 CFR 80.46(a) through (g) provided that these are the only test methods used by that registered supplier for Arizona CBG or AZRBOB certified at that facility.

R20-2-760. Compliance Surveys

- A. Each registered supplier who elects to certify Arizona CBG or AZRBOB to meet any averaging standard under ~~R20-2-751 or R20-2-751.01~~ shall conduct a program of compliance surveys in accordance with a survey program plan which has been approved by the director. Such approval shall be based upon the survey program plan meeting the following criteria:
 1. The survey program shall consist of surveys which shall occur during the following time periods:
 - a. ~~From June 1, 1998, through September 30, 1998, 2 surveys shall be conducted;~~
 - b. ~~From~~ from and after May 1, 1999:
 - ia. Two surveys during the period May 1 through September 15 of each year; and
 - ib. Two surveys during each period of November 1 through March 31.
 2. The survey program shall meet the criteria stated in subsection (B) of this Section.
 3. In the event that any registered supplier fails to conduct an approved survey program, the director shall issue an order requiring that person comply with all applicable standards on a per-gallon basis for a period of at least 6 months, extending through the end of the survey period identified in paragraph (1) of this subsection ending on or after the end of that 6 month period. This requirement

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to achieve compliance with per-gallon standards shall apply from the beginning to the beginning of the applicable survey periods for which the failure occurs, regardless of when during that period the failure to survey occurs.

B. General survey requirements.

1. A survey shall consist of all samples that are collected pursuant to the applicable survey design during any consecutive 7-day period and that are not excluded under paragraph (6) of this subsection.
2. A survey shall be representative of all Arizona CBG gasoline which is being dispensed in area A as provided in subsection (E) of this Section.
3. A VOC survey shall consist of any survey conducted during the periods identified in (A)(1)(a) and (A)(1)(b)(i).
4. A NO_x survey series shall consist of any survey conducted during the periods identified in (A)(1)(a) and (A)(1)(b)(ii).
5. Each sample included in a survey shall be analyzed for oxygenate type and content, olefins, sulfur, and aromatic hydrocarbons, E200, E300, and RVP in accordance with the methodologies specified in R20-2-759. RVP should be analyzed during the time period of June 1, 1998 through September 30, 1998 and May 1 through September 15 from and after May 1, 1999.
6. The results of each survey shall be based upon the results of the analysis of each sample collected during the course of the survey, unless the sample violates the applicable per-gallon maximum or minimum standards for the parameter being evaluated plus any enforcement tolerance that applies to the parameter.
7. Any sample from a survey that violates any standard under R20-2-751 or R20-2-751.01, or that constitutes evidence of the violation of any prohibition or requirement under this Article, may be used by the director in an enforcement action for such violation.
8. Each laboratory at which samples in a survey are analyzed shall participate in a correlation program with the director to ensure the validity of analysis results.

C. The results of each Federal Complex Model VOC emissions reduction survey shall be determined as follows:

1. For each Federal Complex Model sample from the survey series, the VOC emissions reduction percentage shall be determined based upon the tested parameter values for that sample and the appropriate methodology for calculating VOC emissions reduction at 40 CFR § 80.45, as adopted by reference under R20-2-758;
2. Area A shall have failed the Federal Complex Model VOC survey if the VOC emissions reduction percentage average of all survey samples is less than the applicable per-gallon standard for VOC emissions reduction.

D. The results of each NO_x emissions reduction survey and survey series shall be determined as follows:

1. For each sample from the survey and survey series, the NO_x emissions reduction percentage shall be determined based upon the tested parameter values for that sample and the appropriate methodology for calculating NO_x emissions reduction at 40 CFR § 80.45 as adopted by reference under R20-2-758, and
2. Area A shall have failed the NO_x survey or survey series if the NO_x emissions reduction percentage average for all survey samples is less than the applicable Federal

Complex Model per-gallon standard for NO_x emissions reduction.

E. Each survey program shall:

1. Be planned and conducted by a person who is independent of the registered supplier (hereafter referred to as the surveyor). In order to be considered independent:
 - a. The surveyor shall not be an employee of any registered supplier,
 - b. The surveyor shall be free from any obligation to or interest in any registered supplier, and
 - c. The registered supplier shall be free from any obligation to or interest in the surveyor.
2. Include procedures such that the number of samples included in each survey assures that the average levels of oxygen, RVP, aromatic hydrocarbons, olefins, T50, T90, and sulfur are determined with a 95% confidence level, with error of less than 0.1 psi for RVP, 0.1% for oxygen (by weight), 0.5% for aromatic hydrocarbons (by volume), 0.5% for olefins (by volume), 5°F. for T50 and T90, and 10 ppm for sulfur;
3. Require that the surveyor shall:
 - a. Except as provided in subsection (F) of this Section, not inform anyone, in advance, of the date or location for the conduct of any survey;
 - b. Upon request by the director made within 30 days following the submission of the report of a survey, provide a duplicate of any gasoline sample taken during that survey to the director at a location to be specified by the director, each sample to be identified by the name and address of the facility where collected, the date of collection;
 - c. At any time permit any representative of the director to monitor the conduct of the survey, including sample collection, transportation, storage, and analysis.
4. Require the surveyor to submit to the director a report of each survey, within 30 days following completion of the survey, such report to include the following information:
 - a. The identification of the person who conducted the survey;
 - b. An attestation by an officer of the surveyor company that the survey was conducted in accordance with the survey plan and that the survey results are accurate;
 - c. If the survey was conducted for 1 registered supplier, the identification of that party;
 - d. The identification of the area surveyed;
 - e. The dates on which the survey was conducted;
 - f. The address of each facility at which a gasoline sample was collected, and the date of collection;
 - g. The results of the analyses of Federal Complex Model samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and RVP, the calculated VOC and NO_x emissions reduction percentage for each survey conducted during the applicable periods identified in paragraph (A)(1) of this Section;
 - h. The name and address of each laboratory where gasoline samples were analyzed;
 - i. A description of the methodology utilized to select the locations for sample collection and the numbers of samples collected.
 - j. For any samples which were excluded from the survey, a justification for such exclusion; and

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- k. For each survey conducted during the period June 1 through September 15, the average Federal Complex Model VOC emissions reduction percentage, and the average Federal Complex Model NO_x emissions reduction percentage for samples collected during the period November 1 through March 31.
 - F. Each survey shall be commenced on a date selected by the director no earlier than 10 business days before the beginning date of the survey.
 - G. The procedure for seeking director approval for a survey program plan shall be as follows:
 - 1. The survey program plan shall be submitted to the director for the director's approval no later than January 1 to cover the period of May 1 through March 31 of each year; and
 - 2. Such submittal shall be signed by a responsible corporate officer of the registered supplier, or in the case of a comprehensive survey program plan, by an officer of the organization coordinating the survey program.
 - H. No later than April 1 of each year, the contract with the surveyor to carry out the entire survey plan for the next summer and winter season shall be in effect, and an amount of money paid by the registered supplier necessary to carry out the entire survey plan shall be paid to the surveyor or placed into an escrow account with instructions to the escrow agent to pay the money over to the surveyor during the course of the conduct of the survey plan. No later than April 15 preceding the period in which the surveys will be conducted, the director shall be given a copy of the contract with the surveyor, proof that the money necessary to carry out the plan has either been paid to the surveyor or placed into an escrow account, and if placed into an escrow account, a copy of the escrow agreement.
- R20-2-761. Liability for Noncompliant Gasoline**
- A. Persons liable. Where the gasoline designated as Arizona CBG or AZRBOB is found to be noncompliant with the provisions of R20-2-751 or R20-2-751.01, the following persons shall be deemed liable for such violation:
 - 1. Each person who owns, leases, operates, controls or supervises the facility where the noncompliant gasoline is found;
 - 2. Each registered supplier whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name, appears at the facility where the noncompliant gasoline is found;
 - 3. Each person who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in noncompliance.
 - B. Defenses.
 - 1. A person who would be liable under subsection (A) of this Section, shall be deemed not in violation if that person can demonstrate:
 - a. That the violation was not caused by the regulated party or its employee or agent;
 - b. That product transfer documents account for all of the gasoline in the storage tank found in violation and indicate that the gasoline met applicable requirements; and
 - c. That it has conducted a quality assurance sampling and testing program, as described in subsection (C) of this Section, except that any person who transfers Arizona CBG or AZRBOB but does not assume title may rely on the quality assurance program carried out by another party, including the party that owns the Arizona CBG or AZRBOB in question, provided that the quality assurance program is carried out properly.
 - 2. Where a violation is found at a facility which is operating under the corporate, trade or brand name of a registered supplier, that registered supplier must show, in addition to the defense elements required by paragraph (B)(1) of this Section, that the violation was caused by:
 - a. An act in violation of law other than the A.R.S. Title 41, Chapter 15, Article 6, or this Article, or an act of sabotage or vandalism;
 - b. The action of any person in violation of a contractual undertaking imposed by the registered supplier designed to prevent such action, and despite periodic sampling and testing by the registered supplier to ensure compliance with such contractual obligation; or
 - c. The action of any person who transfers Arizona CBG or AZRBOB but does not assume title not subject to a contract with the registered supplier but engaged by the registered supplier for transportation of Arizona CBG or AZRBOB, despite specification or inspection of procedures and equipment by the registered supplier which are reasonably calculated to prevent such action.
 - 3. To show that the violation was caused by any of the specified actions, the party must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.
- C. Quality assurance program.** In order to demonstrate an acceptable quality assurance program for Arizona CBG or AZRBOB at all points in the gasoline distribution network, other than at service stations or fleet owner facilities, a party must present evidence:
- 1. Of a periodic sampling and testing program to determine if the applicable maximum or minimum standards as reflected in R20-2-751 and R20-2-751.01 are met, and
 - 2. That on each occasion when Arizona CBG or AZRBOB is found in noncompliance with 1 of the requirements referred to in paragraph (C)(1) of this Section:
 - a. The party immediately ceases selling, offering for sale, dispensing, supplying, offering for supply, storing, transporting, or causing the transportation of the violating product; and
 - b. The party promptly remedies the violation by abiding by the provisions of this Article.
- R20-2-762. Penalties**
- Any person who violates any provision of this Article shall be subject to any or all of the following:
- 1. Prosecution for a Class 2 misdemeanor pursuant to A.R.S. § 41-2113(B)(4).
 - 2. Civil penalties in the amount of \$500 per infraction pursuant to A.R.S. § 41-2115.
 - 3. Stop-use, stop-sale, hold and removal orders pursuant to A.R.S. § 41-2066(A)(2).

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TABLE 1 - TYPE 1 GASOLINE STANDARDS

	Non-averaging Option	Averaging Option		
	A	B	C	D
Fuel Property**	Per Gallon (minimum)	Average	Minimum (per gallon)	Maximum (per gallon)
VOC Emission Reduction (%) May 1 - Sept 15	≥27.5	>29.0	≥25.0	N/A
NO _x Emission Reduction (%) May 1 - Sept 15	≥5.5	≥6.8	≥3.0	N/A
NO _x Emission Reduction (%) Sept 16 - April 30	≥0.0	≥1.5	≥2.5	N/A
Oxygen, ethanol, (% by weight unless otherwise noted) Nov 1- Mar 31 April 1 - Oct 31	10 % ethanol by vol. 2.0	N/A 2.1	10 % ethanol by vol. 1.5	4.0 4.0
Oxygen, other than ethanol, (% by weight) Nov 1- Mar 31 April 1 - Oct 31	2.7 2.0	N/A 2.1	2.7 1.5	3.5* 2.7
* Maximum oxygen content must comply with the EPA oxygenate waiver requirements. ** Dates represent compliance dates for service stations and fleet owners.				

TABLE 2 - TYPE 2 GASOLINE STANDARDS

	Averaging Option		Non-averaging Option	Units of Standard
	A	B	C	
Fuel Property	Maximum Standard (per gallon)	Averaging Standard*	Flat Standard * (per gallon maximum)	
Sulfur Content	80	30	40	Parts per million by weight
Olefin Content	10.0	4.0	6.0	% by volume
90% Distillation Temperature (T90)	330	290	300	Degrees Fahrenheit
50% Distillation Temperature (T50)	220	200	210	Degrees Fahrenheit
Aromatic Hydrocarbon Content	30.0	22.0	25.0	% by volume
Oxygen, ethanol Nov 1- Mar 31 April 1 - Oct 31	10% ethanol 2.7	-- --	10% ethanol 2.7***	% by vol. % by weight
Oxygen, other than ethanol Nov 1- Mar 31 April 1 - Oct 31	3.5** 2.7	-- --	3.5** 2.7***	% by weight % by weight
<p>* In lieu of the standards in columns B and C, registered suppliers may opt to comply with the standards contained in R20-2-751(D), (E) and (F) and R20-2-751.01(D) for the use of the PM.</p> <p>** Maximum oxygen content must comply with the EPA oxygenate waiver requirements.</p> <p>*** The gasoline produced in accordance with the Non-averaging Option must comply with a per gallon minimum oxygen content of 1.8% by weight April 1 - October 31.</p> <p>NOTE: Dates represent compliance dates for service stations and fleet owners.</p>				

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TABLE 3 TYPE 3 GASOLINE STANDARDS

	Non-averaging Option	Averaging Option		
	A	B	C	D
Fuel Property	Per Gallon (minimum)	Average	Minimum (per gallon)	Maximum (per gallon)
VOC Emission Reduction (%) June 1—Sept 30	≥35.1	≥36.6	≥32.6	N/A
NO _x Emission Reduction (%) June 1—Sept 30	≥0	≥1.5	≥2.5	N/A
Oxygen, ethanol, (% by weight) June 1—Sept 30	2.0	2.1	1.5	4.0
Oxygen, other than ethanol, (% by weight) June 1—Sept 30	2.0	2.1	1.5	3.5*
* Maximum oxygen content must comply with the EPA oxygenate waiver requirements. NOTE: Dates represent compliance dates for service stations and fleet owners.				

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

PREAMBLE

1. Sections Affected

Article 1
 R20-8-101
 R20-8-102
 R20-8-103
 R20-8-104
 Article 2
 R20-8-201
 R20-8-202
 R20-8-203
 R20-8-204

Rulemaking Action

New Article
 New Section
 New Section
 New Section
 New Section
 New Article
 New Section
 New Section
 New Section
 New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-1554.04

Implementing statute: A.R.S. §§ 41-1554.04, 41-1554.05 and 41-1554.06

3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Carol Sanger, Executive Director
 Address: Greater Arizona Development Authority
 3800 North Central Avenue, Suite 1650
 Phoenix, Arizona 85012
 Telephone: (602) 280-1360
 Fax: (602) 280-8125

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4. An explanation of the rule, including the agency's reasons for initiating the rule:

During its 1997 session, the Arizona state legislature established the Greater Arizona Development Authority for the purpose of making funds available to provide technical assistance to infrastructure projects of political subdivision, Indian tribes, and special districts, and financial assistance for infrastructure projects of political subdivisions and Indian tribes. These proposed rules are necessary to effect that statutory purpose.

A.R.S. § 41-1554.04 provides that the Greater Arizona Development Authority (Authority) shall establish application forms for technical and financial assistance, a procedure to review and approve or disapprove applications for technical and financial assistance, criteria by which technical and financial assistance will be awarded, and a means to prioritize applications for technical and financial assistance. A.R.S. § 41-1554.05(C) provides that the Authority shall establish an application process and method of determining the allocation of technical assistance in accordance with A.R.S. § 41-1554.04. Finally, A.R.S. § 41-1554.06 provides for a number of requirements that applicants for financial assistance must meet to receive financial assistance from the Authority.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The rule does not diminish a previous grant of authority to a political subdivision of this state.

6. The preliminary summary of the economic, small business, and consumer impact:

The impact is expected to be positive. While small business and consumers may have user rates and fees increased to pay for the new infrastructure financed by the Greater Arizona Development Authority, the net effect is expected to be positive for 3 reasons:

- (1) The projects will be developed more quickly with GADA participation, thereby accelerating the benefits to the local community.
- (2) The Authority will provide financial support and technical assistance to local communities for infrastructure development.
- (3) The projects will be financed at a lower interest rate that will be passed on to local taxpayers in the form of lower user fees or taxes.

GADA borrows money from the public debt markets at lower rates than most Arizona communities can obtain on their own. GADA gets lower rates because, in addition to pooling together multiple borrowers into 1 issue, GADA provides 3 levels of security to investors:

- (1) The pledge of the GADA fund,
- (2) An intercept of state-shared revenues,
- (3) The pledge of principal and interest payments from the loans GADA makes to Arizona Communities.

The GADA Fund is funded by a 3-year appropriation from the General Fund as follows:

\$2.8 million in FY 97-98,
\$8.0 million in FY 98-99, and
\$9.0 million in FY 99-00.

These funds remain in the state under the investment control of the State Treasurer's Office. Together with the security mentioned above, the \$19.8 million is expected to support approximately \$100 million in financing that will be used for infrastructure projects in Arizona.

Because of the wide range of possible projects with varying local impacts, it is difficult to estimate or generalize about the potential economic impact of the Authority. It can be said that the Authority's beneficial contribution will be in the acceleration of the development of necessary projects. In some cases, the acceleration may be 2 years, in other case, longer. This allows the community to begin utilizing this benefit at an earlier date to improve the economic well being of its residents and improve the overall quality of life.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Carol Sanger, Executive Director
Address: Greater Arizona Development Authority
3800 North Central Avenue, Suite 1650
Phoenix, Arizona 85012
Telephone: (602) 280-1360
Fax: (602) 280-8125

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8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

A person may submit written comments on the proposed rules or preliminary economic, small business, and consumer impact statement to the person listed above no later than 5 p.m., December 10, 1997. Oral proceedings are scheduled as follows:

Date: December 8, 1997

Time: 1:30 p.m.

Location: Greater Arizona Development Authority Conference Room
3800 North Central Avenue, Suite 1650
Phoenix, Arizona 85012

Nature: Public hearing to receive oral comments.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

10. Incorporations by reference and their location in the rules:

None

11. The full text of the rules follows:

TITLE 20, COMMERCE, BANKING, AND INSURANCE

CHAPTER 8, GREATER ARIZONA DEVELOPMENT AUTHORITY

ARTICLE 1. TECHNICAL ASSISTANCE

R20-8-101. Definition

R20-8-102. Application Process

R20-8-103. Eligibility Criteria

R20-8-104. Priority; Approval and Disapproval; Protest

ARTICLE 2. FINANCIAL ASSISTANCE

R20-8-201. Definitions

R20-8-202. Application Process

R20-8-203. Eligibility Criteria

R20-8-204. Priority; Approval and Disapproval; Funding; Protest

ARTICLE 1. TECHNICAL ASSISTANCE

R20-8-101 Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

1. "Administratively complete" means that an applicant has completed the application for technical assistance and provided all of the required information.
2. "Applicant" means a political subdivision, special district, or Indian tribe that applies to the Authority for technical assistance.
3. "Authority" means the Greater Arizona Development Authority.
4. "Board" means the board of directors of the Authority.
5. "Economic overview" means an financial analysis of a proposed project for which technical assistance is being requested based on public data and information provided by the applicant.
6. "Infrastructure" means any facility located in this state for public use owned by a political subdivision, special district or Indian tribe that retains responsibility for its operation and maintenance.
7. "Project" means the whole, or any distinguishable segment or segments, of a venture to construct or improve infrastructure for which technical assistance is being requested or provided.
8. "Staff" means the Executive Director and the Finance Director of the Authority.

9. "Technical assistance round" means a period of time established by the Board during which applications for technical assistance are sent to potential applicants, submitted to the Authority, analyzed by staff, and submitted to the Board for approval or disapproval of technical assistance.

R20-8-102 Application Process

- A. The Board shall annually establish a due date by which applications for technical assistance shall be submitted for each technical assistance round, and the number of technical assistance rounds to be held in a given state fiscal year.
- B. The Authority shall send solicitation letters to potential applicants at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be placed on a mailing list to be utilized by the Authority in sending out solicitation letters.
- C. An applicant shall provide the following information to the Authority by the established due date for such applications on a form provided by the Authority:
 1. Contact information for the applicant, including name, address, and telephone number;
 2. A description of the kind of technical assistance being requested and an estimate of the cost of the technical assistance;
 3. A detailed description of the project;
 4. The estimated starting date, completion date, and projected cost of the infrastructure project for which the technical assistance is being requested;
 5. The projected sources and uses of funds for the infrastructure project, including public and private in-kind contributions; and
 6. A list of professional and outside service providers, including their professional qualifications, who have worked on any part of the project.
- D. In addition to the application required in subsection (C), an applicant shall provide the following information to the Authority by the established due date for such applications:
 1. A planning document specific to the locality of the project for which the technical assistance is being requested that includes the project, such as a capital

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- improvement plan, local strategic plan, or similar planning document;
2. If the project is listed on the project priority list of the Water Infrastructure Finance Authority or on the Department of Transportation's 5-Year State Plan, a document evidencing this fact;
 3. A resolution from the governing body of the applicant stating the following:
 - a. The project is in the best interests of the residents;
 - b. The estimated economic impact on the community; and
 - c. The commitment of local funds, if applicable; and
 4. The applicant's most recent financial statements.
- E. Staff shall analyze each application received on or prior to the due date for applications for technical assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-103. Applications for technical assistance which are determined to be both administratively complete and eligible for technical assistance under R20-8-103 shall be submitted to the Board for prioritization and possible funding. Applications which are either not administratively complete or do not meet the criteria in R20-8-103 shall be submitted to the Board with a recommendation that they be disapproved.

R20-8-103 Eligibility Criteria

To be eligible to receive technical assistance, an applicant shall satisfy the following criteria:

1. The applicant is a political subdivision, Indian tribe, or special district;
2. The technical assistance requested is in connection with the development or financing of an infrastructure project;
3. The application submitted is administratively complete;
4. The project for which the technical assistance is being requested has public support;
5. The project is part of an adopted comprehensive plan, for example, a capital improvement plan, a local strategic plan, or similar planning document;
6. The applicant has the capacity to provide managerial support to the project; and
7. The cost of the technical assistance does not exceed 10% of the total cost of the final project.

R20-8-104 Priority; Approval and Disapproval; Protest

- A. The Board shall disapprove any application for technical assistance which does not meet the eligibility criteria in R20-8-103.
- B. The Department of Commerce shall prepare an economic overview for each of the projects eligible for technical assistance that shall establish the economic context for the project to assist the Board in its evaluation of the relative economic importance of each eligible project to the local community.
- C. During each technical assistance round, the Board shall determine the order and priority of infrastructure projects for which an eligible application for technical assistance which has been received based on the following factors listed below in order of importance. A project shall be given a higher priority to receive technical assistance if:
1. The project has been determined to be a likely candidate for future financial assistance from the Authority based upon an assessment made at the time of the application by Staff of the applicant's ability to access lower cost funding from other sources;

2. The project is close to construction and permanent financing;
 3. There is evidence of a high degree of certainty of the project's economic benefits and that the project is not considered speculative based on the following:
 - a. The project builds on the existing economic base of the community as determined by the economic overview;
 - b. There are partnerships, both public and private, providing financial and in-kind services, in support of the project; and
 - c. There is broad public support for the project.
- D. The Board shall approve or disapprove each eligible application for technical assistance based upon the priority list and available funding for technical assistance. The Board may fund all or a portion of a technical assistance request.
- E. The Authority shall mail the Board's written determination to each applicant within 90 days after the date that all applications for technical assistance were due.
- F. For each approved project, the Authority shall establish a date by which the commitment of the Authority to provide technical assistance expires. No technical assistance shall be provided to an applicant's approved project if the applicant does not complete all required agreements with the Authority on or before that date.
- G. An applicant whose project for technical assistance is disapproved may file a protest with the Board as follows:
1. The applicant shall submit its reasons for protesting the decision of the Board, in writing, within 20 days of the date of the Board's written determination, in a letter addressed to the Chairman of the Board, with a copy to the Executive Director of the Authority.
 2. The Authority shall review the substance of the protest and respond, in writing, by mail, to the applicant, within 30 days. A copy of the response shall be distributed to the Board.
 3. Upon receipt of the Authority's written response, the applicant may request an opportunity to make a direct presentation to the Board. The presentation shall be scheduled for the next regular Board meeting.
 4. Following the applicant's presentation, the Board shall decide whether to review the applicant's request for technical assistance. The Board shall, in writing, notify the applicant of its final decision regarding the applicant's request for technical assistance.

ARTICLE 2. FINANCIAL ASSISTANCE

R20-8-201 Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

1. "Administratively complete" means that an applicant has filled out the application for financial assistance and provided all of the required information.
2. "Applicant" means a political subdivision or Indian tribe that applies to the Authority for financial assistance.
3. "Authority" means the Greater Arizona Development Authority.
4. "Board" means the board of directors of the Authority.
5. "Dedicated revenue source" means the origin of money committed by an Indian tribe to be used for repayment of a loan repayment agreement.
6. "Economic evaluation" means an financial review conducted by Authority staff based on public data as well as information provided by the applicant.

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7. "Financial assistance round" means a period of time established by the Board during which applications for financial assistance are sent out to potential applicants, returned to the Authority, analyzed, and submitted to the Board for approval or disapproval.
8. "Infrastructure" means any facility located in this state for public use owned by a political subdivision, special district or Indian tribe that retains responsibility for its operation and maintenance.
9. "Pledged revenues" means any monies to be received by a political subdivision, including property taxes, other local taxes, fee, assessments or charges pledged by a political subdivision as a source for repayment of a loan repayment agreement.
10. "Project means the whole or any distinguishable segment or segments of a publicly-owned infrastructure venture for which financial assistance is being requested or provided.
11. "Staff" means the Executive Director and the Finance Director of the Greater Arizona Development Authority.

R20-8-202 Application Process

- A. The Board shall annually establish a due date by which applications for financial assistance shall be submitted for each financial assistance round, and the number of financial assistance rounds to be held in a given state fiscal year.
- B. The Authority shall send solicitation letters to potential applicants at least sixty days before applications are due. Other interested persons may submit requests to the Authority to be placed on a mailing list to be utilized by the Authority in sending out solicitation letters.
- C. An applicant shall provide the following information to the Authority by the established due date for such applications on a form provided by the Authority:
 1. Contact information for the applicant, including name, address, and telephone number;
 2. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the applicant's current fiscal year;
 3. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the previous 5 fiscal years;
 4. The proposed or estimated financial statement or budget, and business plan or management plan for the current and next fiscal years;
 5. A summary of fees for the applicable enterprise funds for the current and past 5 fiscal years if not included in response to subsections (C)(2), (3), and (4);
 6. The source of pledged revenues or dedicated revenue source to be used to repay the requested financial assistance;
 7. The amount of pledged revenues or money collected through the dedicated revenue source for each of the previous 5 fiscal years;
 8. An estimate of the amount of pledged revenues or money that will be collected through the dedicated revenue source for the current fiscal year;
 9. A projection of the amount of pledged revenues or money that will be collected through the dedicated revenue source for each of the next 5 fiscal years;
 10. A list of professional and outside service providers, including their professional qualifications, that are working or have worked on the project;
 11. An estimate of the project costs, including applicable planning, design, and construction costs, as well as esti-

mated annual operation, maintenance, and replacement costs;

12. An estimated schedule of required disbursements of the financial assistance; and
 13. Any information that may have a negative effect on the applicant's application, or on its financial condition, including material information relating to other projects undertaken by the applicant, pending lawsuits, and current investigations by state or federal authorities.
- D. In addition to the application required in subsection (C), an applicant shall provide the following information to the Authority by the established due date for such applications:
1. Copies of documentation relating to outstanding indebtedness, including official statements, financial assistance agreements, and amortization schedules;
 2. A detailed description of the project, with an explanation of how the project complements the overall development of the community, including the following:
 - a. Copies of project feasibility studies, engineering reports, project designs, rate studies, and related material;
 - b. A detailed timeline for the project; and
 - c. A planning document specific to the locality of the project for which the financial assistance is being requested that includes the project, such as a capital improvement plan, local strategic plan, or similar planning document;
 3. A resolution of the governing body of the applicant that provides:
 - a. That the project is in the best interests of its residents;
 - b. Any commitment of local funds to be considered as part of the project evaluation; and
 - c. If a political subdivision, confirmation of the pledge of the state-shared revenues;
 4. For a political subdivision, a written commitment by its governing body to complete all applicable review and approvals and to secure all required permits in a timely manner;
 5. For a political subdivision, evidence of voter approval to incur debt in connection with the project:
 - a. If the election for voter authorization has been held, a copy of the ballot evidencing voter authorization for the debt in connection with the project and official action canvassing the results of the election;
 - b. If the election for voter authorization is scheduled to be held after the application date, sample ballot language and evidence of a plan to obtain voter authorization for the debt to be incurred in connection with the project;
 6. For a political subdivision, if voter approval has been obtained for substantially the same project but with a different funding source within the last 12 months, evidence of that approval in lieu of that required by subsection (D)(5); and
 7. For an Indian tribe, evidence of the current or proposed establishment of a dedicated revenue source under the control of a tribally chartered corporation or other tribal entity subject to suit by the Attorney General, or evidence that additional assets that are subject to execution by the Attorney General without the waiver of any claim of sovereign immunity by the Tribe have been designated additional security.

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E. Staff shall analyze each application received on or prior to the due date for applications for financial assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria described in R20-8-203. Applications for financial assistance which are determined to be both administratively complete and eligible for financial assistance under R20-8-203 shall be submitted to the Board for prioritization and possible funding. Applications which are either not administratively complete or do not meet the criteria in R20-8-203 shall be submitted to the Board with a recommendation that they be disapproved.

R20-8-203 Eligibility Criteria

To be eligible to receive financial assistance, an applicant shall satisfy the following criteria:

1. The applicant is either a political subdivision or an Indian tribe;
2. The project for which financial assistance is being requested is an infrastructure project;
3. The application is administratively complete;
4. The applicant has demonstrated that the financial assistance can be repaid and the level of security pledged to the loan is consistent with A.R.S. § 41-1554.06(D)(4) through A.R.S. § 41-1554.06(D)(6);
5. The applicant has shown that the project is ready for construction and the applicant is ready to proceed;
6. The applicant has provided evidence that the project has public support;
7. The applicant has provided evidence that the project is part of an adopted comprehensive plan, for example, a capital improvement plan, local strategic plan, or similar planning document; and
8. The applicant has the capacity to manage, construct, and operate the infrastructure project.

R20-8-204 Priority; Approval and Disapproval; Funding; Protest

- A. The Board shall disapprove an application for financial assistance which does not meet the eligibility criteria in R20-8-203.
- B. To assist the Board, the Department of Commerce shall prepare an economic evaluation for each of the projects determined to be eligible for financial assistance that analyzes the economic contribution of the project to the local community and identifies opportunity costs associated with not doing the project.
- C. During each financial assistance round, the Board shall determine the order and priority of infrastructure projects for which eligible applications for financial assistance have been submitted based on the following factors which are listed below in order of importance. A project shall receive a higher priority to receive financial assistance for each of the following:

1. The applicant demonstrates strong credit worthiness and ability to repay the obligation; for example, the applicant has a coverage ratio of at least 1 or a debt service reserve consisting of a set aside of 1 year of projected principal and interest payments;
 2. The applicant has little or no access to alternative funding sources at the same or lower interest rate as provided by the Authority;
 3. There is evidence of a high degree of certainty of the project's economic benefits based on the economic evaluation prepared by the Department of Commerce, the context of the project within the local planning document submitted by the applicant, and the public support for the project; or
 4. The purpose of the project is for 1 of the following:
 - a. Public health or safety reasons;
 - b. Current identified infrastructure needs; or
 - c. Future identified infrastructure needs.
- D. The Board shall approve or disapprove each application for financial assistance based upon the priority list and available funding for financial assistance. The Board may approve funding all or a portion of a financial assistance request. Disbursement of funds to an approved applicant shall only occur upon the applicant's agreement with the terms and conditions established by the Board in accordance with A.R.S. § 41-1554.06.
- E. The Authority shall mail the Board's written determination to each applicant within 90 days after the date that applications for financial assistance were due.
- F. For each approved project, the Authority shall establish a date by which the commitment of the Authority to provide financial assistance expires. No financial assistance shall be provided for an applicant's approved project if the applicant does not complete all necessary agreements with the Authority on or before that date.
- G. An applicant whose project for financial assistance is disapproved may file a protest with the Board as follows:
1. The applicant shall submit its reasons for protesting the decision of the Board, in writing, within 20 days of the date of the Board's written determination, in a letter addressed to the Chairman of the Board, with a copy to the Executive Director of the Authority.
 2. The Authority shall review the substance of the protest and respond, in writing, by mail, to the applicant, within 30 days. A copy of the response shall be distributed to the Board.
 3. Upon receipt of the Authority's written response, the applicant may request an opportunity to make a direct presentation to the Board. The presentation shall be scheduled for the next regular Board meeting.
 4. Following the applicant's presentation, the Board shall decide whether to review the applicant's request for financial assistance. The Board shall, in writing, notify the applicant of its final decision regarding the applicant's request for financial assistance.